DOCUMENT RESUME

ED 253 939 EA 017 516

AUTHOR Barrett, Nanette
TITLE Education Source Book: The State Legislators' Guide for Reform.
INSTITUTION American Legislative Exchange Council, Washington, DC.
PUB DATE Jan 85
NOTE 84p.; Support provided by the John M. Olin Foundation.
AVAILABLE FROM American Legislative Exchange Council, 214 Massachusetts Avenue, N.W., Suite 400, Washington DC 20002 ($8.00).
PUB TYPE Legal/Legislative/Regulatory Materials (090) -- Viewpoints (120) -- Reference Materials - General (130)

EDRS PRICE MF01/PC04 Plus Postage.
DESCRIPTORS Citizenship Education; Decentralization; Discipline Policy; *Educational Change; Educational Vouchers; Elementary Secondary Education; Finance Reform; Home Schooling; *Models; Parent Role; Premium Pay; School Choice; School Security; *State Legislation; Tax Credits; Teacher Selection; Teaching (Occupation); Tuition

ABSTRACT

A compendium of proposals for model state laws intended to restore parental and local control and to improve teaching and discipline in elementary and secondary education is presented in this report. The proposals, together with explanatory passages, are presented in three categories: (1) parents' role in education, (2) teachers' role in education, and (3) states' role in education. The first category includes measures to permit home schooling, to mandate increased parental involvement in schools, and to establish tuition tax credits and a voucher system. In the second group are four suggested bills to establish alternatives to teacher certification; an "Extraordinary Performance Pay for Teachers Act"; and five school discipline measures that would strengthen penalties for school violence, guarantee that schools be notified of serious crimes by students, restrict access to school premises, establish mandatory school crime reporting, and require all school districts to develop and implement discipline policies according to state guidelines. The third category consists of a measure that would minimize regulation of private schools, a resolution requiring that a values education program be formulated and adopted, and a series of suggestions for school finance reform. An index of previous educational legislation proposed by the American Legislative Exchange Council is included. (MCG)

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Education Source Book: The State Legislative Guide to Reform

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Education Source Book: The State Legislators' Guide for Reform

By Nanette Barrett

American Legislative Exchange Council

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The **AMERICAN LEGISLATIVE EXCHANGE COUNCIL** (ALEC) is the nation's oldest and largest membership organization of State Legislators. A nonprofit, nonpartisan public policy and research group, ALEC is dedicated to the principles of free enterprise, limited government, and traditional values.

Library of Congress Catalog Card
Number 84-046167

Published January 1985 by the
American Legislative Exchange Council

Printed in the United States of America

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ACKNOWLEDGEMENT

The American Legislative Exchange Council gratefully acknowledges the John M. Olin Foundation, whose generous support made possible the publication of this book, and all individuals, companies, and foundations who support ALEC. Special recognition is also accorded to the state legislators and policy experts who provided invaluable advice, assistance, and materials.

FOREWORD

The states today are effective and decisive voices in the determination of national policies. In a significant number of areas, answers to problems now flow not from the federal government, but from the states. One of the most important of these areas both consumes a major portion of state budgets and shapes the minds of our sons and daughters: elementary and secondary education.

In the forefront of state education reform for the past ten years has been the American Legislative Exchange Council, a nonpartisan public policy research organization that provides state legislators with model legislation on education. Throughout ALEC's 12 year history, it has served as a forum for the exchange of sound and imaginative ideas to restore parental authority and choice in education. It is dedicated to the principles of local control and proposes legislation which enhances parental control, but leaves to the state those responsibilities parents and the community choose to delegate.

Since 1977, five volumes of suggested legislation on a variety of issues have been published and circulated by ALEC to all state representatives, executive branch officers, and Members of Congress. A sixth volume in the series will be released shortly. All of these books share the distinction of containing major contributions from lawmakers who have the most expertise and practical knowledge of state and local problems.

This volume, while the first ALEC Source Book to be devoted to one subject, continues the tradition of legislator involvement. Many of the measures in this book have been designed by ALEC members who are state representatives. Others were formulated with the assistance of individuals in the public and private sectors.

In the cumulative index of this book are descriptions of ALEC's past 16 proposals for education reform, covering such topics as teacher competency, student proficiency, and school discipline. To date, 23 states have enacted or implemented the Teacher Proficiency Act (1977), which requires that teachers pass a test demonstrating their proficiency in basic reading, writing, grammar, spelling, and mathematics in order to obtain a position in the

public school system. Twenty-nine states have enacted or implemented the Student Proficiency Act (1978-79), requiring public school students to demonstrate ability in basic language skills by passing an appropriate examination as a prerequisite to high school graduation. Thirteen states have enacted or implemented versions of the School Discipline Act (1977), governing the use of responsible corporal punishment within the classroom. Copies of any suggested legislation are available from ALEC's office in Washington, D.C.

In response to requests by lawmakers and other concerned members, ALEC researched and analyzed for many months the problems inherent in education and, with the help of legislators and other education experts, formulated viable solutions to them. ALEC's findings and conclusions are delineated in this work, the **Education Source Book: The State Legislators' Guide for Reform**, a compendium of proposed bills to improve public and private education and enable parents and the community to educate their children where and how they want. It is a sampling of constructive ideas proposed by legislators and education experts to stem the tides of diminished quality and negligible parental control in education. It offers solutions to problems facing parents, teachers, and the state regarding home schooling, vouchers, school discipline, teacher certification, merit pay, and school finances.

The proposals and guidelines contained in this book are not the only solutions to problems facing the states, but are practical ideas written with an eye toward cost, efficiency, and constitutionality. They are carefully drafted to be utilized by virtually any state legislature, although some tailoring of bills may be required to fit different circumstances. They can be modified and adapted in any way to meet the needs of a particular state. The analyses that precede them are taken from government and private studies, court decisions, hearings, and news stories.

In addition to the book's author, Nanette Barrett, ALEC owes a debt of gratitude to the many legislators, organizations, and individuals who gave time and effort toward its completion. These include members of the ALEC Board of Directors; policy experts who examined the draft of the book and gave invaluable advice and assistance; and legislators who submitted bills, laws, proposals, and background materials.

Special recognition is also accorded to the John M. Olin Foundation whose generous support made possible the publication of the book.

Representative Bill Ceverha
ALEC National Chairman
State Capitol
Austin, Texas

INTRODUCTION

The word "education" appears nowhere in our Constitution, but Article X of that document requires, "The powers not delegated to the United States . . . nor prohibited by it to the States, are reserved to the States respectively, or to the people." This is usually interpreted as a signal that the Founding Fathers believed states and localities would have primary responsibility for education, and history bears this out. Over half a century ago, public education was homogeneous and locally controlled. Schools and school districts were numerous and very small. For the most part, parents controlled the schools and agreed about what to teach, how to teach it, and why. This consensus of community values and parent interaction and control was largely responsible for the success of private and public schools before World War II.

As schools became larger and society more mobile, teachers and superintendents grew farther removed from the parents of their students and, all too frequently, from the students themselves. Policies dictated from state capitals and Washington, D.C., placed burdens on public schools to compensate for economic disadvantages in family backgrounds and overcome centuries-old prejudices, to confer equality on youngsters with physical or mental handicaps, and to transmit our common culture while preserving each of its diverse elements. As a result, public schools were forced to meet all the needs of all the people without pleasing anyone.

For close to two decades, educational quality has been neglected in the name of equality. Each year, school administrators are beset with more and more laws, rules, regulations, and court precedents which promise to guarantee absolute fairness. Such guarantees are not inexpensive. Currently, public education is the largest single item in state budgets. Each state spends an average of 45 percent of its budget on public education.

To be sure, some laws and regulations stemming from greater state and federal roles have helped to develop a more equitable educational system. But this success does not mean that quality education results from more rules

and more money. On the contrary, overregulation hampers its improvement.

Nowhere is quality control more important—and less evident—than in the education of the young. Parents who bear responsibility for their children's education have had little say about what goes on inside the classroom. Consequently, the debate over the concept of choice in education has been heating up the past few years and there are signs that Americans want to reestablish the age-old principles of free choice, local control, individual worth, and quality in education. The increased support for private and home schools and the results of surveys reveal that parents are beginning to realize that schooling is far too important to be left to a government monopoly over which parents exert no control, save through the remote mechanism of the voting booth.

A June 1983 Gallup Poll indicated that 51 percent of Americans would like to see a voucher system adopted in this country which would provide greater parental choice and stimulate market competition among schools. The favorable responses for vouchers were up from 43 percent in 1981 and 38 percent in 1971. Also, there has been a remarkable increase in the number of private and home schools. In Louisiana alone, 300 new private and Christian schools have opened and 600 families have begun home study programs since the passage of a law in 1980 to deregulate private education. Civil rights groups like the American Civil Liberties Union (ACLU) are supportive of a home instruction option. The ACLU argues that it is in the interest of parental rights to choose an alternative to public education and that the state's responsibility to assure minimum levels of education does not extend to control the means by which that interest is realized.

The **Education Source Book: The State Legislators' Guide for Reform** contains model legislation for the states which restores freedom of choice to parents concerning their children's education without financial penalties. The book presupposes that the most important criterion by which to judge any given aid, program, regulation, or activity by the federal or state government in education is whether it fosters educational freedom and quality. The Home Education Act grants parents the freedom to educate their children at home without any severe or unduly imposed restrictions by the state. A child receiving home instruction need only to take a yearly examination administered by the the state to assess his mastery of basic skills. The Education Tax Credit Act and Education Voucher Act provide greater parental choice in regard to the schools children can attend. Both bills reduce educational expenses such that private schools are more affordable. Currently, the only families with real educational alternatives are the well-to-do. Both bills would change government policy and enable parents of every income level to select the best and most appropriate education.

In particular, the Education Voucher Act promotes educational diversity

and choice in public schools by incorporating into the public school system the qualities that are prized in the private schools. Parents of students enrolled in public school would be allowed to elect their own school board which could then select its principal and approve its budget, thereby making public schools autonomous units like the private schools. Another bill, entitled the Parent Educational Participation Act, promotes the autonomy of public schools by allowing parents to participate in administrative and school policy decisions concerning the content of the curriculum, the formation and implementation of discipline policies, and the construction of budgets. Various avenues of communication between parents and the school staff are suggested to preserve the parental responsibility to share in school business.

In the chapter, Alternatives to Teacher Certification, four straightforward bills are designed to give principals and superintendents in public schools the authority to hire teachers according to standards that they themselves set. The measures enhance the status of these critically important school leaders and provide nothing more than the authority that private school principals now routinely exercise. On the other hand, the Private School Act protects the rights already exercised by private school officials and teachers. Cooperation with state and local officials is only required in regard to health and safety regulations and maintenance of immunization and attendance records.

The remaining model bills deal directly with improving or preserving the quality of private and public education. In the Extraordinary Performance Pay for Teachers Act a performance-based reward system is created to recruit and retain good teachers. It rewards teachers who demonstrate exemplary teaching performance in the classroom. The system is linked to evaluation points assigned by the principal, other teachers, and students. The progress of the students in the classroom is one criterion for measuring teacher performance.

To combat the breakdown in standards of individual behavior, the Citizenship Education Act creates a values education commission to identify and assess ongoing programs in morals and values education in public schools. Its goal is to formulate recommendations that will reinforce America's traditional adherence and devotion to high standards of moral and ethical conduct in personal and public life. But, in order to obtain high standards of moral conduct, public schools must become safe havens from crime. A chapter entitled School Discipline Measures presents a package of bills intended to discourage crime on campus. It contains measures to increase penalties for campus crime, make it easier to jail or fine a disruptive "outsider," warn teachers and administrators of any students' histories of violent crime or sexual assault, and require uniform reporting of school

crime by all districts within a state.

Finally, no compendium of model legislation for education is complete without a chapter devoted to guidelines for school finance. Here, such finance policies are linked specifically to quality improvement. Deconsolidation of school districts, school-based management programs, and performance-based funding are just a few of the state initiatives described to solve the financial problems facing schools without massive federal and state funding.

In a diverse country with diverse educational needs, there is no one best way to achieve quality or equal opportunity in education. Unfortunately, U.S. schools have steadily become less oriented to the genuine education of individuals and increasingly devoted to turning out "socially conscious" automatons. Federal and state regulations contribute to this problem by hampering the ingenuity of the American people who are capable of constructing alternative ways to provide quality education. A democratic government should not provide or control education, but only make sure that it is taking place. It should not dictate how to spend education dollars raised by taxpayers, but only collect and disburse it where the public sees fit.

The proposals and legislation that follow reestablish the proper role of parents, teachers, and the state in education by providing guidelines which make it less difficult for a teacher to teach, for a principal to administrate, for a parent to choose and oversee the education of his child, and for the state to protect the educational freedom of its citizens. These directives restore education's separate and unique function by placing it outside the political pressures and controls that affect other aspects of public policy. It is hoped that this book will provide parents, teachers, school administrators, and lawmakers with the inspiration and courage to resolve problems and improve the education upon which hinges the freedom of our democratic institutions. Change has begun and there is nothing wrong with American education that cannot be fixed. This book proposes instruments to the states by which they may begin to repair the rusty machine that teaches our children. It does so by presenting creative and practical solutions to make education, once again, the foundation for a better society.

PARENTS' ROLE IN EDUCATION

HOME EDUCATION ACT

Home schooling is quickly becoming a national movement. It is estimated that as many as one million children are instructed at home. Parents are beginning to enjoy a revival of respect from authorities as significant contributors to the educational process. Teachers are urging parents to spend time working side by side with their children because they see the fruits that are reaped from cooperating with parents. Nonetheless, many school and government officials are very reluctant to allow parents full authority over the education of their children.

In spite of the growth of the home schooling movement, there is little consistency from state to state regarding the acceptability of home schooling. Most states permit the option of home education through stated policy or unwritten practice. In some states, however, parents are arrested and even jailed for the alleged crime of either teaching their own children at home or sending them to an uncertified religious or private school.

In the political arena, home schools are considered to be anything from revolutionary to reactionary. They are revolutionary in that they go against the current established order. For years, myths have been perpetuated in American society that public schools provide the best education for the most people and it is the government's civic responsibility to educate its citizens. As a result, professional teachers certified by the state have become the primary educators of children who attend state approved schools. Home schools are a threat to this status quo.

Home schools are also labeled reactionary because they developed out of a growing consensus that the public schools are not providing a healthy learning environment. Parents are distressed about the inadequate training their children are receiving and the new sexual and moral standards being promoted by the schools. Lack of discipline in government schools has made it practically impossible for school administrators, teachers and students to

fulfill their responsibilities. Many parents blame the expulsion of religious and traditional values for the discipline problems.

One of the root causes for many educational failures is the serious deterioration of the American family. Home schools respond to this providing an opportunity for the family's rejuvenation. School and government officials would be wise not merely to refrain from opposing home schoolers, but to cooperate with them as fully as possible. Such cooperation is likely to yield important ideas and methods that might help public institutions solve their most serious problems.

Home education utilizes the tutorial method of instruction which numerous studies have found superior to traditional classroom instruction. It integrates skill development with such tasks as cooking, shopping, planning menus and doing repairs. Computer technology immeasureably increases the educational effectiveness of home instruction. International studies in 29 countries have confirmed that the home environment accounts for more student variation in learning than any other factor, including curriculum and quality of instruction. Moreover, youngsters educated at home achieve higher than national averages in standardized measures. Clearly, parents hold the major key to their children's learning and more often than not teach capably without being certified. It is time for lawmakers to take a more active stance against unsatisfactory home schooling laws.

The suggested bill entitled Home Education Act is the most explicit pro-home schooling law to date. It exempts a child from compulsory attendance requirements if the parents or guardians provide a program of instruction in the home. Parents are not required to have or acquire teaching certificates and the program need not be approved by the state. Once a year a child receiving home instruction must take an examination to assess his mastery of the basic skills. In short, this act grants parents the freedom to educate their children without any severe or undue restrictions imposed by the state.

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act may be cited as the **Home Education Act**.

Section 2. *[Exemption from compulsory attendance.]* Any child of compulsory school attendance age whose parents or persons acting as parents object to a regular school education on the basis of religious or other personal beliefs or convictions is exempt from the compulsory

attendance requirements if the child is provided with a program of instruction in the home by his parents or persons acting as his parents.

Section 3. *[Notification and registration.]* On or before September 15 of each year, the parents or persons acting as parents of the child shall:

(A) notify the board of education of the school district in which the child resides that the child is being provided with a program of instruction under authority of Section 2; and

(B) register the name, age, and home address of the child with the same board of education.

Section 4. *[Optional participation in classes and activities of public schools.]* No child exercising his rights under the provisions of this act shall be denied the use of public school buildings, facilities, and resources; access to public school personnel; or participation in public school classes and activities, including extracurricular activities; subject only to the same rules applicable to students otherwise in full attendance.

Section 5. *[Assessment of minimum competency.]* The administration of an examination for assessing the attainment of minimum competency objectives in the basic skills of reading and mathematics to a child designated in Section 2 shall be carried out by the board of education of the school district in which the child resides. The examination shall be conducted in the Spring of each year. The board of education of the school district where the child resides shall determine the grade level at which the child should be assessed and the time, place, and method for administration of the examination.

Section 6. *[Failure of compliance.]* Failure of compliance at any time with the provisions of this act shall result, after a written warning has been served on the child's parents or persons acting as his parents by the board of education of the school district in which the child resides and a period of 30 days after receipt of service is allowed for compliance, in forfeiture of the exemption provided herein and thereupon the child shall become subject to the compulsory attendance requirements of this code.

Section 7. *[Severability clause.]*

Section 8. *[Repealer clause.]*

Section 9. *[Effective date.]*

PARENT EDUCATIONAL PARTICIPATION ACT

Students are still graduating from public high schools without learning how to read, write, spell or do simple arithmetic. The traditional liberal arts curriculum which emphasizes the acquisition of knowledge, analytical skills, and morals has been replaced by a more "progressive" curriculum emphasizing the development of the human "psyche," social skills, and humanistic values. Most of these changes have occurred without the knowledge and consent of parents or the public at large. Educators have forgotten or ignored that parents have the primary responsibility for the education of their children and that taxpayers pay for that education.

Both parents and the public have been denied the rights to know, understand and share in decisions that affect the education of children. Implicit in many school-parent activities are the notions that the school will tell the parents what it wants them to know and that the school will answer questions only if the parents take the initiative to ask. Some states are instituting parent educational participation programs, but these usually train parents to become teachers—the kind of teachers the state wants them to be. Most of these efforts treat the symptoms arising from a bad education instead of actively removing the causes responsible for students' lack of ability to read or write or discipline themselves. Local programs and initiatives do exist which encourage citizen groups and educators to solve a variety of educational problems by working together. During the 1970s, the Institute for Responsive Education surveyed hundreds of examples of community participation in which citizen groups provided advice and assistance to educators in nine general areas: (1) identification of goals, priorities, and needs; (2) budget analysis; (3 and 4) selection of evaluation of teachers and principals; (5) development of curricula; (6) extracurricular programs; (7 and 8) community support and financing for schools; and (9) recruitment of volunteers.

Another survey conducted in 1975 by Allan C. Ornstein and H. Talmage showed that although school officials have been willing to encourage community participation, they have resisted movement toward community control of schools. Superintendents envisioned community control as threatening to their decision making power, but saw community participation as beneficial under certain conditions. They looked more favorably on community participation in school finances than in personnel, curricula, and student affairs. They were least favorably disposed to advice in personnel matters and protective of their rights to recruit, evaluate, and promote staff members.

Parents can contribute a great deal to the educational process if schools would only let them. They can do more than just volunteer to work in the

school office or bring cookies to the classroom. Legally, they can do more and should. Parents have rights more fundamental than those cited in Supreme Court decisions regarding parental responsibility and authority. To name just a few, they include the freedom to decide who will teach their children; what they will be taught; how they will be taught; and the best way to monitor their scholastic achievement.

Before public education usurped these fundamental rights, parents continually made decisions about the basic structure and content of their children's education. Some educators may argue that it is practically impossible in this day and age for parents to oversee every aspect of their children's learning. Naturally, parental involvement can only go so far because many parents work and, as a result, cannot become as active in the educational process as they would like to be. Schools developed, if for no other reason, because it is impractical and difficult for most parents to teach their offspring. Nevertheless, children will not be properly educated and public schools will only get worse if parents do not exercise their fundamental rights and assist schools in their missions to transmit the necessary knowledge and skills needed to survive in today's society. If parents can not educate their own children, then they have the responsibility to see that the surrogate parent, the public or private school, is doing the job.

Unfortunately, a wall of separation has arisen over the years between parents and the public schools. Concerned parents, citizens and lawmakers want to tear down that wall because many abuses have developed, keeping school affairs separate from the home. This impregnable wall has contributed to the pervasive attitude among students that learning is something which only takes place in the classroom and not in the home. It has encouraged students to adopt value systems contrary to the ones in which they were raised while parents helplessly stand by and watch their children reject them and all they hold dear.

The following bill entitled the Parent Educational Participation Act is designed to bridge the wall separating parents and the public schools. Some of the provisions are currently being implemented voluntarily in public and certainly in private schools. But many public schools still follow traditional practices which leave parents out of any administrative or school policy decisions. This bill requires public schools to inform parents about the professional background and experience of the principal and teachers—the flip side of the school's need for family information. It also requires the school to provide detailed information about the curriculum, course content and criteria for student evaluation. In addition, it allows parents to participate in administrative and school policy decisions concerning the content of the curriculum, the formation and implementation of discipline policies, and the construction of budgets. Various avenues of communications between

parents and the school staff are suggested to preserve the parental responsibility to share in school business.

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act may be cited as the **Parent Educational Participation Act**.

Section 2. *[Purpose.]* Parents have the fundamental human rights to know, to understand, and to share in decisions that affect the education of their children enrolled in public schools of the state. This act is designed to protect those rights and establish regulations to preserve them.

Section 3. *[Definitions.]* As used in this act, the term:

(A) "Parent" means the legal guardian of a minor.

(B) "School" means any elementary or secondary public school of the state.

(C) "Student" means any person under the age of eighteen (18) years enrolled in the public schools of the state.

Section 4. *[Access to information about the principal and teachers.]* Distribution to parents of biographical sketches and data about the principal and teachers by the school in which their children are enrolled shall be an intentional and routine practice. Especially at the start of the school year and throughout, **all** parents shall be informed about:

(A) the professional background, affiliations and experience of the school staff;

(B) any special workshops the principal or teachers have recently attended or any rewards received for excellence in administrative work or teaching; and

(C) any changes which occur during the school year, especially staff changes which directly or indirectly affect the student.

Section 5. *[Access to information about the curriculum.]* At least two (2) weeks prior to each school semester, **all** parents shall be informed in writing by the school in which their children are enrolled about the following aspects of the curriculum:

(A) the content, textbooks and methods to be employed in the courses as well as the expected level of student performance;

(B) the graduation requirements and sequence in which courses are to

be taken as well as explanations concerning course substitutes or electives;

(C) the bases or criteria for student evaluation in the courses as well as an evaluation of the student's progress in the sequence of courses required for graduation; and

(D) a sample of the report card with explanations concerning the evaluative criteria.

Section 6. *[Access to information about school policies.]* At the start of the school year and throughout, parents shall be informed by the school in which their children are enrolled about the official policies of that school and the school district regarding discipline, excused absences, how to arrange for a visit to the school, etc. School information manuals shall be sent directly to students' homes and avenues of communication shall be adopted by administrators at each school to inform parents and answer legitimate questions and concerns of parents as well as the public at large.

Section 7. *[Parental involvement in school administrative decisions.]* Parents shall be able to exert influence through the proper channels in regard to administrative policies developed by the school or school district in which their children are enrolled. Parents shall contribute to the shaping of administrative decisions involving:

(A) the evaluative criteria used for teachers and principals;

(B) the steps used in the reviewing and hiring processes of teachers and principals; and

(C) the due process by which parents and the public at large can issue recommendations or complaints to protest incompetent or unfit teachers and administrators without fear of recrimination.

Section 8. *[Parental involvement in school policies.]* Parents shall be able to exert influence through the proper channels in regard to school policies developed by the school or school district in which their children are enrolled. Parents shall contribute to the shaping of school policies concerning:

(A) the content of the curriculum;

(B) the formation and implementation of discipline policies;

(C) the construction of budgets; and

(D) the determination of program priorities.

Section 9. *[Avenues for parental influence.]* Administrators in each school must create the appropriate channels to allow for parental influ-

ence regarding administrative and school policy decisions as described in Sections 7 and 8. School administrators shall create and seek recommendations and advice from parents using the following avenues of communication:

(A) Parent Advisory Committees representative of the ethnic, religious and economic composition of the school community;

(B) Parent Forums where school policies are discussed openly, calmly and rationally with school administrators and teachers;

(C) written evaluative tools such as questionnaires and surveys to find the opinions of parents and the public at large; and

(D) feedback systems by which parents and the public at large can be informed about the decisions ultimately made.

Section 10. *[Severability clause.]*

Section 11. *[Repealer clause.]*

Section 12. *[Effective date.]*

EDUCATION TAX CREDIT ACT

In the nation's early days, education was provided mostly by private schools, usually under religious auspices. In the early 1800s, public schools increasingly assumed the task of teaching as education came to be viewed as a civic responsibility. Today, approximately 89 percent of the 45 million elementary and secondary students attend public schools. Expenditures for public elementary and secondary education in 1982-83 were $108 billion—more than double the amount spent ten years ago. Tax money is almost the sole support of public schools. Families who want to use private schools are expected to pay their own way.

Parents do have a choice in the type of education they wish their children to receive, but finances make this option largely hypothetical. Despite the Supreme Court ruling in **Pierce v. Society of Sisters** that the elimination of private schools is unconstitutional, public schools still enjoy a near monopoly in education as private schooling is kept beyond the financial reach of most parents. In short, we have a system of school finance that provides free choice for the rich and extreme financial sacrifice or compulsory public education for everyone else. The poor as well as the working class are discriminated against because the exercise of First Amendment rights relating to school choice rests upon an ability to pay for that choice, yet the government simultaneously erodes the ability to pay for private schools through taxes used exclusively for public schools.

Not only economic factors limit parents' choice of schooling, but also Supreme Court decisions have made it difficult for the states to determine whether financial relief measures such as educational tax credits and deductions are constitutional. Most authorities regard the recent **Mueller v. Allen** decision of the Supreme Court as an important turning point for providing tax relief to parents whose children attend private schools, and hope to those whose children do not. This crucial case challenged the constitutionality of income tax deductions allowed by the state of Minnesota for elementary and secondary education. The Minnesota statute allows state income tax deductions of up to $700 for expenditures toward the education of students in private **and** public schools. These deductions may be subtracted from gross income in calculating net income for state income tax purposes. Deductible items include regular full time tuition paid to private schools and tuition paid to public schools for the education of students who have out-of-district or out-of-state residences. Also deductible are fees paid to public and private schools for special instruction such as driver education or musical instruction; transportation for field trips as well as routine bussing to and from school; and any required equipment and supplies such as gym shoes, musical instruments, textbooks, and pencils.

Justice William Rehnquist, who wrote the majority opinion in **Mueller v. Allen**, outlined helpful signposts in dealing with the Establishment Clause of the First Amendment. In general, the Court's decision was based on a three-part test for determining the constitutionality of the Minnesota statute:

1. The statute must have a secular purpose;
2. The principle or primary effect of the statute must be one that neither advances nor inhibits religion; and
3. The statute must not foster excessive government entanglement with religion.

The Court had no difficulty in concluding that the Minnesota statute abided by the first and third parts of the test. The most difficult question to assess was whether the statute had the primary effect of advancing the sectarian aims of religious schools. Currently, 84 percent of private schools are affiliated with a religious group and most of these church schools are Catholic. The Court minority feared that financial support for religious schools would not be restricted to the secular functions of those institutions and thus would violate the Establishment Clause of the First Amendment, which case law says prohibits a state from subsidizing religious education. Nevertheless, the Court majority flatly rejected the principle that any program which in some manner aids an institution with a religious affiliation violates the Establishment Clause. They concluded that the positive contributions of sectarian schools far outweigh any significant risks of religious or denominational control over the democratic process. The rejection of this principle by the Court majority has important ramifications in regard to legislation involving religious schools. It opens opportunities for tax relief which have been foreclosed in the past to parents whose children attend church schools.

Since the **Mueller v. Allen** decision, education tax credit and deduction bills have been advancing in the states. Lawmakers in one-third of the state legislatures have taken up the battle to institute them. Many have patterned their legislation after Minnesota's statute since the Court was not entirely clear on the requirements for valid private education tax relief under the Establishment Clause. Constitutional scholars and lawyers have offered discernable guidelines for lawmakers formulating education tax credit and deduction bills in light of Judge Rehnquist's opinion:

1. The statute providing the tax benefit must be neutral on its face. Benefits under the **Mueller** program were available to the parents of both public and private school children. It is important to note the Court's explicit recognition that a statute is not necessarily unconstitu-

tional because religious institutions substantially benefit.

2. The statute must be a genuine part of the state's tax policy. Deductions for educational expenses under the **Mueller** program are part of a tax policy which allows charitable contributions to religious institutions to be deductible.
3. The benefit must be conferred directly upon the parent rather than the school. Under the **Mueller** program, parents are the direct and immediate recipients of the assistance. The Court emphatically stated that assistance to parents of parochial school children poses fewer Establishment Clause objections than would direct aid to schools.

These three discernable guidelines shed light on whether proposed education tax credit or tax deduction legislation runs afoul of Establishment Clause objectives. The **Mueller v. Allen** decision definitely supports the constitutionality of education tax credits since they are simply equalized tax deductions. Ordinary tax deductions are subtracted from gross income in calculating net income subject to taxation, while tax credits are subtracted directly from tax due. Tax credits are more equitable than ordinary tax deductions because the value of ordinary tax deductions depends on one's income tax bracket, and are greater for a person or family with a larger income and in a higher tax bracket. This, of course, is simply the result of our progressive tax rate scale. A tax credit, on the other hand, is dependent only on education expenditures and gives equal credits to persons with lower incomes and higher incomes.

However, there are people with lower incomes having no income tax liability and, as a result, they cannot derive any benefits from education tax credits. Opponents of tax credits consider this to be discriminatory. If that were the case, though, all deductions, exemptions, and credits would have to be called discriminatory since there are many deductions a taxpayer cannot claim for one reason or another. As an alternative, some suggest that parents who have no tax liability receive tax-raised funds from the Internal Revenue Service to offset education expenses. But such ideas are based on the notion that tax benefits are equivalent to the spending of government funds. That is true only if the assumption is made that the government has a claim upon or owns all income and gratuitously permits citizens to keep a fraction of it.

By far, the overwhelming majority of families with children in private schools belong to the middle class. Parochial schools, when able, reduce or waive tuitions of students from lower-income families. Once education tax credits are authorized, private schools will be in a better position to forego tuition for students whose families cannot take full advantage of the tax credit.

The suggested bill entitled the Education Tax Credit Act is designed to

provide tax relief directly to any taxpayer who pays for the educational expenses of a student, whether related to the taxpayer or not. The credit is thus available both to individuals and corporations. The act grants an income tax credit of up to $500 for the cost of expenses for each child enrolled in either a public or private school. Consequently, any taxpayer can more easily help finance the education of a friend or some needy youngster who would otherwise have no opportunity to elect to attend a private school. In addition, individuals may claim the tax credit for educational expenses if it does not exceed their total state income tax liability. The tax credit can be used to mitigate such expenses as tuition, books, supplies, and transportation. As a result, parents and students have a wider range of choices and alternatives in education.

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act may be cited as the **Education Tax Credit Act**.

Section 2. *[Tax credit allowable for certain educational expenses.]*

(A) In addition to any other credits against the tax payable on net income which the law allows to an individual taxpayer, an individual taxpayer shall be entitled to the tax credit against the tax payable on net income provided for in this act. A taxpayer may claim the tax credit allowed by Section 2(B) for educational expenses described therein incurred after July 1, 1985, for any full-time student including, but not limited to, himself, his spouse, and each of his dependents. If such dependent or other person on whose behalf educational expenses are paid is a taxpayer, he may claim the tax credit for educational expenses allowed by this Section, and the parent or benefactor paying his educational expenses may claim the tax credit only if the dependent or other person does not claim the credit.

(B) Any taxpayer who qualifies under this act shall be entitled to a tax credit against the tax payable on his net income in an amount equal to the sum of the educational expenses described below, or five hundred dollars ($500) for each person for whom the expenses were incurred, whichever of the sums is the lesser, on the following:

(1) Tuition and all general fees paid to private and public elementary and secondary schools, vocational-technical schools, and proprietary schools, except that portion of tuition or general fees used for religious instruction;

(2) Required books, except books for religious instruction;

(3) Required school supplies, including by way of example, paper, pencils, pens, binders, laboratory supplies, and art supplies;

(4) Required clothing, including by way of example, school uniforms, band uniforms, gym suits, and athletic uniforms;

(5) Bus fees for transportation to and from school;

(6) Athletic fees; and

(7) School lunches, not to exceed one dollar ($1.00) per school day.

(C) Any item enumerated in Section 2(B) shall not qualify as a basis for a tax credit if it qualifies and is claimed as a deduction on the taxpayer's state or federal income tax return or as a deduction or tax credit on the state or federal income tax return of the dependent or other person on whose behalf educational expenses are paid. Nor shall it qualify unless the taxpayer has and maintains in his possession for three (3) years following the filing of any return an actual receipt for the educational expenses incurred.

(D) The tax credit shall not exceed the total state income tax liability of the taxpayer.

(E) Schools receiving tuition or other monies for which tax credits are claimed, are deemed not subject to government regulations thereby.

Section 3. *[Severability clause.]*

Section 4. *[Repealer clause.]*

Section 5. *[Effective date.]*

EDUCATION VOUCHER ACT

Vouchers are a new vehicle for distributing tax money for education. Through a government certificate or voucher, parents are given the money to pay for their child's education. Parents give this voucher to the school in which they choose to enroll their child and the voucher is then redeemed or cashed by the school with the state. In effect, vouchers subsidize parents for the education of their children just as the post-World War II G.I. Bill subsidized students by giving them pieces of paper redeemable for a designated sum of money, but spendable on educational services supplied by institutions, whether religiously-affiliated or not.

Voucher systems proposed by advocates such as Nobel Prize Laureate economist Milton Friedman are designed to give parents the same freedom of choice in schools as the veterans who received "vouchers." Friedman's voucher proposal is close to a system already in place in 95 Vermont school districts. In many Vermont areas, the taxpayers pay for the town's children to attend the local private academy or any approved school outside the district, although there are limitations on the voucher-like system. For instance, payments can be made only to nonsectarian private schools approved by Vermont's Department of Education. Nonetheless, parents in Vermont have more control over their children's education than do parents in other parts of the country.

Traditionally, parents in the United States have had the option of sending their children to schools of their choice, but those who desire private education still face the problem of cost. The Census Bureau shows that total expenditures for public elementary and secondary schools in the 1980-81 school year had to be funded by $444 in taxes per man, woman, and child in the United States. The average taxpaying citizen paid at least that amount regardless of whether he had children actually attending public schools. Consequently, if a family chose to send their children to private schools, they would pay, in addition, close to $400 a year for church-affiliated elementary schools and $1,500 for other private elementary schools. Private high schools cost even more.

Thus it is not surprising that parents are becoming more adamant about the rising costs of public schools, especially since the quality of public education has diminished. More than ever before, parents desire to remove their children from the grip of incompetent public educators and send them to private schools. They are ready to vote for alternatives enabling them to do so.

When Milton Friedman first proposed vouchers in an essay published in 1955, most Americans were startled at the new idea. But over the years there has been a dramatic increase in popular support for vouchers because of the

cost and poor quality of the public school system. In 1983, a majority of Americans in a national survey expressed support for education vouchers. A June 1983 Gallup Poll indicated that 51 percent of Americans would like to see a voucher system adopted in this country; 38 percent would not, and 11 percent had no opinion. The favorable responses were up from 43 percent in 1981 and 38 percent in 1971. The youngest group surveyed—people 18 to 29 years old—were the age group most heavily in favor of vouchers. Sixty percent supported them and only 29 percent were opposed. Blacks were even stronger in their support—64 percent in favor, 23 percent opposed. Likewise, there was strong support among Catholics for vouchers—63 percent in favor, 29 percent opposed.

Despite the increase of popular support for vouchers, political opposition has developed against them. In the forefront of organized political opposition are the teacher unions—the National Education Association (NEA) and the American Federation of Teachers (AFT). They claim that vouchers will both endanger the public schools which are designed to unite our society and hurt the educational interests of poor, black and emotionally troubled children. They also fear that competition arising between schools to attract children with vouchers will tempt schools to falsely advertise their wares and make the academic world like the business community.

These fears and trepidations are unfounded when one examines the results of various voucher systems in other countries. Other fears not openly expressed by the unions and public school enthusiasts, however, are more realistic. For one, advocates of public schools consider any movement toward vouchers a threat to an effective government monopoly over education. Up to now, only subsidized private schools have been able to compete with "free" schooling provided by the government. With vouchers, new private schools of various kinds could be expected to appear to supply a vast new market. This would disperse or dismantle the control and power of the educational establishment.

Secondly, if vouchers brought about an expansion of independent schools that were not part of government school districts, it would be more difficult for unions to organize employees in such institutions. Consolidation and tight structuring create a philosophically homogeneous group of educators, which in turn tends to minimize or obliterate any dissention in the teaching ranks.

Thirdly, a voucher system would inject a market standard for teacher salaries and remove incompetent teachers and schools. Parents would be more apt to make judgments about the education their children are receiving and act accordingly.

Lastly, a voucher system would benefit parochial schools. The American Civil Liberties Union (ACLU) is opposed to vouchers on Establishment

Clause grounds. They consider such payments to church-operated schools an establishment of religion and thus unconstitutional despite the fact that, under G.I. Bill provisions amounting to education vouchers, Americans have always been able to select schools of their choice, whether religiously-affiliated or not.

Unfortunately, the acceptance or rejection of a voucher system in a state will not hinge upon any penetrating investigation or philosophical debate between equals. It will depend on whether state legislators' desire to improve the quality of education is stronger than any inclination to remove the fears of public school advocates. If parents and lawmakers stop to think about it, the **real** fears of the educational establishment have nothing to do with the right of an American child to be educated the best way possible.

Most parents are alienated from the current state monopoly in education and do not support it. They do not care about the difficulty or ease with which unions organize their employees to form a unified philosophical coalition. They want to remove incompetent teachers and schools and award those who teach well. They want to choose the school where they send their children without paying for it twice. A voucher system would take into account all of these concerns.

The following piece of legislation entitled the Education Voucher Act authorizes the creation of a statewide educational voucher system to improve the quality of education and increase educational opportunity. It is a system whereby parents and legal guardians use education vouchers to pay for educational services provided by public and private schools to students in kindergarten through grade 12. The purpose of the voucher is to reintroduce normal market forces into education, so as to create a more competitive environment among the providers. Consequently, funding and accountability for public schools in this act closely resemble that of private schools where market forces have played a greater role.

By fixing spending levels and administrative costs, public and private schools are strengthened through vouchers. Wasted revenues and increased debts stunt the growth of any system. Accordingly, this model bill stipulates that the state department of education may not spend less than the national average public school per-pupil expenditure times public and private school enrollment, nor may it exceed 20 percent above that amount. The state's administrative cost may not exceed ten percent of the amount spent to redeem vouchers.

Restrictions are also placed in the bill on voucher values. As a general rule, voucher values are the same for most public school students, although different vouchers are issued to provide for students with special needs. Voucher values also vary to create a balance between those schools receiving more or less money than they otherwise would under existing funding

mechanisms. In such cases, a special formula is developed to restrict inflated costs by averaging and phasing increases or decreases in the cost per pupil to avoid a sudden increase to taxpayers.

Since private schools are strengthened by having local school board autonomy, this act allows parents of students enrolled in each public school to elect by secret ballot their own school board which can select its principal and approve its budget. The public schools become autonomous units and the principal and local school board have the authority to set curriculum, hire and fire employees, and negotiate with unions. The state department of education has such powers as are reasonably necessary to carry out its responsibilities to issue and pay education vouchers, supervise public educational facilities, and administer its own funds.

Nongovernment schools choosing to participate in the education voucher program are entitled to redeem vouchers upon filing a statement indicating satisfaction of state and local fire, safety, and health requirements. No private school is ineligible to redeem vouchers because it teaches moral values, philosophy or religion. In order to minimize cost to the taxpayer, the cash value of a voucher for private school students is worth 75 percent of the value of the voucher for students attending public schools. In time, this percentage can increase until the cash value of the private school voucher is equivalent to that of the public school.

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act may be cited as the **Education Voucher Act** .

Section 2. *[Purpose.]* In order to improve the quality of education and increase educational opportunity, this bill authorizes the creation of a statewide educational voucher system.

Section 3. *[Definitions.]* For the purpose of this act:

(A) "Educational voucher" is the instrument issued to parents or legal guardians that represents an amount of money as determined by the provisions of this act;

(B) "Education voucher program" means a system whereby parents and legal guardians use education vouchers to pay only for educational services provided to students in kindergarten through grade twelve (12);

(C) "School" means any educational provider, public or private,

which teaches any grade level(s) from kindergarten through grade twelve (12);

(D) "Parents" include natural parents, legal guardians, or any person having legal or effective custody over a student; and

(E) "Student" means any person enrolled in kindergarten through grade twelve who resides in the state.

Section 4. *[Establishment of voucher program.]* Implementation of the Education Voucher Program shall take no longer than three years, beginning on the effective date of this act. Full eligibility for vouchers of at least one-half of all students shall take place no later than the 1986-87 school year and of all students in the 1987-88 school year. Specific and realistic schedules for implementation shall be determined by the state department of education, local school districts and participating private schools.

Section 5. *[Voucher classifications and values.]*

(A) The value of a voucher shall be determined according to the following criteria:

(1) When a parent selects a public school, the cash value of the voucher shall be determined by calculating the average public school per-pupil expenditure in the state.

(2) When a parent selects a private school, the cash value of the voucher shall be seventy-five percent (75%) of the cash value of the voucher given to parents selecting a public school. Tuition add-ons or parental supplements to private school costs shall be permitted. The value of the private school voucher shall in no way limit the cost of a private school's tuition.

(3) When a parent selects a vocational school, the cash value of the voucher shall be no greater than half (50%) the cash value of the voucher given to parents selecting a public school.

(B) Two additional vouchers shall be issued upon request to parents of students with special needs:

(1) When a parent of a child needing special education selects a school, the cash value of the voucher shall vary with the educational difficulty presented by a particular disability. The state's department of education shall categorize the different disabilities and determine the voucher value necessary to meet the needs of students falling under each category. For each category, the cash value of the voucher shall be no less than the cash value of the voucher given to parents selecting a public school. Nor shall it exceed twice that amount.

(2) For low income parents, as defined by the state, who cannot pay

for costs attendant to education such as transportation and supplies, the cash value of the voucher shall be no greater than half (50%) the cash value of the voucher given to parents selecting a public school.

Section 6. *[Financing of vouchers.]* Vouchers shall be funded with amounts budgeted for elementary and secondary education by the state government and local school districts. In addition to voucher revenues, public schools shall utilize amounts received from the federal government and other state and local funds as provided by law.

Section 7. *[Annual changes.]* Vouchers shall be of equal value for students of similar grade level except in the following cases:

(A) Voucher values shall vary when necessary to provide for students with special needs as described in Section 5(B).

(B) Voucher values shall vary for public or private schools receiving more money from the educational voucher program than they would under present funding mechanisms. For such schools, the cash value of the voucher may not exceed the average cost per pupil for the last three (3) years, nor exceed the cash value of the voucher given to parents selecting either a public or private school.

(C) Voucher values shall vary for public or private schools receiving less money from the educational voucher program than they would under present funding mechanisms. For such schools, the cash value of the voucher may exceed ten percent (10%) of the average cost per pupil for the last three (3) years, but not to exceed the cash value of the voucher given to parents selecting either a public or private school. Tuition add-ons or parental supplements shall also be permitted.

Section 8. *[Authority and responsibility of state department of education.]* The state department of education shall have such powers as may be reasonably necessary to carry out its responsibilities to:

(A) issue and pay educational vouchers;

(B) supervise public educational facilities; and

(C) administer its own funds.

Section 9. *[Issuance of vouchers.]* The state department of education shall issue the vouchers by June 1 of each year to parents who submit them to the schools of their choice by July 1. The schools shall submit the vouchers for payment as agents of the parents to the state department of education by August 1. The state department of education as agents of the parents shall pay the vouchers in two (2) equal payments to the schools, one on September 1 and one on January 1. Appropriate adjustments shall

be made for partial year enrollment and transfers. Reasonable requirements for verifying enrollment shall be established by the state department of education.

Section 10. [Supervision of public school facilities.] The state department of education shall allot public school facilities on a cost effective basis based on public school needs. Excess facilities shall be leased or rented on a priority basis to private schools at a price determined by competitive bid.

Section 11. *[Budget for state department of education.]* The total budget shall not be less than the national average public school per pupil expenditure times the number of students participating in the voucher system, nor may it exceed twenty percent (20%) above that amount. All other expenses such as administrative costs shall not exceed ten percent (10%) of the amount spent to redeem vouchers.

Section 12. *[Admissions.]* Governing boards of local school districts may designate attendance areas for public schools located within the district. Students residing within the attendance area of a public school shall have first opportunity to register for space in that school; but, such registration shall not be mandatory. When registration of its attendance area's residents is completed, a public school with space available must enroll other children residing within the district on a first come first served basis; after district residents have had an opportunity to register, schools with space available may enroll students residing outside the district. No district may deny its residents permission to attend school outside the district. Nor shall any public or private school deny a student admission solely on the basis of race, color, or national origin.

Section 13. *[Participation by schools.]* While every school supported in whole or in part by tax dollars shall be required to participate in the education voucher program, private schools shall not be forced to participate. Nonpublic schools shall have the option every year to participate or to remain completely independent.

Section 14. *[Autonomy of public schools.]* Parents of students enrolled in each public school shall elect by secret ballot their own school board which shall select its principal and approve its budget. The public schools shall become autonomous units and the principal and local school board shall have the authority to set curriculum, hire and fire employees, and

negotiate with unions. In no case shall regulations be imposed on public schools which are more restrictive than existing ones.

Section 15. *[Autonomy of private schools.]* Nonpublic schools shall be entitled to redeem vouchers upon filing a statement indicating satisfaction of those state and local requirements for fire, safety, and health. Neither the state nor local jurisdictions may augment such requirements. No private school shall be ineligible to redeem vouchers because it teaches moral values, philosophy, or religion. Nor shall a private school participating in the education voucher program be considered a recipient of federal assistance.

Section 16. *[School development.]* Additional requirements for starting a school or regulations hampering school development shall be prohibited beginning on the effective date of this act.

Section 17. *[Academic progress and discipline.]* A student who uses a voucher at any school may continue therein unless he or she is deriving no substantial academic benefit or is responsible for serious or habitual misconduct. With fair notice and procedures, each school may establish and enforce a code of conduct and discipline, and regulate its academic dismissals.

Section 18. *[Penalty for fraud.]* Any person or institution who defrauds the system shall be prosecuted to the full extent of the law and shall be liable to full and multiple restitution.

Section 19. *[Severability clause.]*

Section 20. *[Repealer clause.]*

Section 21. *[Effective date.]*

TEACHERS' ROLE IN EDUCATION

ALTERNATIVES TO TEACHER CERTIFICATION

Besides the implementation of some serious plan to increase parental control over education, such as tuition tax credits or vouchers, the reform that would have the most immediate and dramatic effect on our nation's public schools is the complete decertification and deregulation of teaching. There is no evidence that the current system of requiring a teaching degree from an accredited college has any relation whatsoever to teaching excellence. The most convincing evidence to the contrary is that successful private schools typically do not require their teachers to have degrees in education.

One could not be blamed for wondering whether the state of the teaching profession could be any worse. For three years in a row (1981-1983), about half of the teachers surveyed in the annual Teacher Opinion Poll conducted by the National Education Association said that they would not or probably would not become a teacher if they had the choice to make over again. A 1982 study concluded that those teachers who leave teaching first were academically the most qualified while those teachers who make teaching a career have lower academic achievement. The same study pointed out that if schools of education and public school employers were to raise their standards of admission to the level of a score of 496 on the verbal part of the SAT (the average score of college students who do not choose to go into education), then almost 70 percent of those interested in teaching would be denied access to the occupation. From 1970 to 1976, the Graduate Record Exam scores of education majors were substantially lower than the scores of majors in eight other professional fields. In 1983, only 68 percent of prospective teachers passed the California Basic Educational Skills Test.

A 1980 survey of American and Japanese teachers found that Japanese

teachers have a closer identity with their schools, that Japanese teachers are more committed than American teachers to service, that Japanese teachers give more supplementary instruction to pupils, and that Japanese teachers work more closely with parents on instructional and disciplinary matters. More than 51 percent of 22,000 high-achieving U.S. students surveyed in the 12th Annual Survey of High Achievers (1981) listed "incompetent teachers and administrators" as a problem in their schools. Albert Shanker, president of the nation's second largest teachers' union, has warned that schools are going to be facing the situation of hiring teachers who are "barely literate." Former U.S. Secretary of Education Terrel Bell warned in the Fall of 1984 that the quality of the teaching workforce was the number one problem facing schools.

In the face of such dismal facts, most of the currently discussed reform proposals seem inadequate. More than half of the states have instituted some kind of proficiency examination for prospective teachers. But these exams have been shown to be so easy as to have the effect of excluding only the most hopelessly unqualified. Neither master teacher nor merit pay plans will do much to get rid of the inferior teachers who are already working in the public schools. Across-the-board salary increases actually reward inferior teachers who are already employed in the schools. Raising standards for entry to and exit from schools of education will restrict the supply of teachers at a time when more teachers will be needed. The hoped for, long term effect of all of these proposals—namely, the attraction of talented people into teaching—is based on speculation. What is needed are changes more dramatic than any of these proposals would effect.

In colonial times, teachers were hired directly by the board of trustees of a community's school. Typically, such a board inquired about an applicant's moral character, religious faith, and ability to enforce discipline; and it usually administered an examination of some kind designed to test the applicant's knowledge of the various school subjects. Apprenticeship was common in many trades, and teaching was no exception. New teachers could receive training by apprenticing themselves to a schoolmaster as an assistant teacher. The rise of centralized authority over education—i.e. chief state school officers along with state level departments of education—and the related and parallel rise of normal schools for the preparation of teachers began to shift the control of teacher certification away from local communities and into the hands of state officials. New York (1849) was the first state to use a degree from its normal school as a substitute for local examination. From 1850 to about 1900, the authority to license teachers was commonly shared between state and local authorities, but was still primarily based on the examination system. During this period, however, the state departments of education began to use economic incentives as a means of consolidating

their growing authority over public schools. Lifetime certificates were granted to graduates of the normal school, but only temporary certificates to those certified by the traditional method of local examination. Some states also offered higher salaries to those teachers certified by the state. In 1900, there were still 3,000 licensing agencies in the United States, and only a few states had completely centralized the process of certification. The Depression of the 1930s, with its general unemployment, created a large oversupply of teachers. Many states reacted to this excess of supply over demand by imposing additional certification requirements. But as late as 1950, some states still permitted the certification of teachers by examinations administered at the local level.

Today, since every state requires a teacher's degree from an accredited college as a prerequisite to teacher certification, local school officials have no say whatsoever in the certification of teachers. Ironically, the contemporary trend at the state level to require the passage of a competency examination as an additional prerequisite to teacher certification indicates a widespread suspicion of the adequacy of a teaching degree. It had been precisely to guarantee the competency of teachers that normal schools were founded.

It is argued—primarily by teacher unions and schools of education— that teaching is a profession and that it must, therefore, be licensed. But no other profession has such a significant percentage of its practitioners, i.e. the teachers in private schools, operating so successfully without licenses. In other professions requiring licenses, such as medicine or law, the license is a promise of a certain standard of knowledge and competence that the law will guarantee by way of malpractice suits. Yet, no court has ever upheld the plaintiffs in lawsuits based on the notion of educational malpractice. Teacher unions and other education associations have shown an equal unwillingness to support the principle of guaranteeing the product of teaching.

Elite preparatory schools have traditionally been the most scornful of the technique courses required as part of a teaching degree. These schools have emphasized subject matter proficiency instead. A teacher at such a school is more likely to have a doctorate in one of the academic disciplines than a doctorate in education. Catholic schools, on the other hand, have largely accepted the premises of teacher training and certification and have voluntarily required certification of their teachers.

In 1983, the Carnegie Foundation for the Advancement of Teaching pointed out that the supply of teachers was going to be 8,000 less than the demand in 1983, 4,000 less in 1984, 28,000 less in 1985, and 31,000 less in 1986. The teacher certification process, deliberately designed to restrict the supply of teachers, is at least partially responsible for this projected shortage. Started in an era when only a tiny minority of people had undergone anything resembling higher education, teacher certification was originally

an attempt to provide some prior assurance that prospective teachers had more education than their students. But teacher education began to take on the trappings of an academic specialty as the nineteenth century progressed. When it was invaded by and successfully taken over by the social sciences at the turn of the century, technique and method became more important than academic substance.

This emphasis on technique and method continues to be repugnant and serves as a barrier to many people who have abundantly more education than teacher certification originally sought to assure—and than the majority of today's public school teachers possess. As late as 1950, only 21 states required an elementary teacher to have a bachelor's degree. Today, it is the requirement of a teaching certificate, not the requirement of a bachelor's degree, that restricts the supply of good teachers. It may not be a coincidence that the decline of American education has been accompanied by the ever increasing imposition of technique laden credentials on teachers. There may even be an inverse proportion between teaching credentials and teaching excellence. Massive public dissatisfaction with the schools has been accompanied by a steady increase in the amount and kind of credentials possessed by teachers. The percentage of teachers with master's degrees increased from 23.1 percent to 49.3 percent from 1961 to 1983—roughly the same period during which the SAT scores were declining.

Except for teacher unions and teacher colleges, few would argue with the proposition that the present system of certification operates to exclude a great number of talented and qualified people with bachelor's degrees from the ranks of teaching. The solution to this problem is to abolish the system of teacher certification . Superintendents and/or principals should have the authority to hire teachers according to standards that they themselves set. This would appropriately enhance the status of these critically important school leaders, and it is nothing more than the authority that private school principals now routinely exercise. The public could hold these visible and accessible local officials directly accountable for teacher quality. Such a reinvention of local accountability would probably by itself solve the entire problem. The present system of certification, combined with the inflexibility and obstruction caused by collective bargaining, has removed control over the teacher workforce not only from the public, but also from superintendents and principals as well. The abolition of the system of teacher certification would allow states to also abolish, with the resulting savings of public monies, the teachers' colleges and schools of education of their systems of higher education.

It has been estimated that there will be a turnover of 45 percent in the teaching workforce by 1990. If the states decertify teaching now, they could cause a permanent improvement in American education.

A national movement for the decertification of teaching has already begun. In June of 1984, the Texas legislature passed a law that provides for subject matter testing and an apprenticeship system as a substitute for teacher certification. New Jersey's Governor Thomas Kean and Education Commissioner Saul Cooperman recently succeeded, after a long political struggle, in promulgating administrative regulations that provide for the same kind of testing-and-apprenticeship avenue into the teaching ranks of that state. In Florida, almost half of the 10,000 new teachers that received temporary certificates in 1983 did not possess teaching degrees. New York City's new policy of hiring teachers without full teaching credentials had the immediate effect of dramatically increasing the supply of applicants. In 1983, Delaware waived teaching credentials for new math and science teachers.

Four very simple bills are set out below. Bill A would abolish teacher tenure as well as teacher certification. Bill B would abolish teacher certification, "grandfather" presently tenured teachers, and do away with the possibility of tenure for future teachers. Bill C would retain teacher tenure, but abolish teacher certification. Bill D, the least interesting one, would retain teacher certification, but also allow the employment of noncertified teachers. NOTE: Giving the authority to "superintendents and principals" would allow superintendents to share this authority with principals or delegate it completely to them. On the other hand, legislators may want to give this authority completely to superintendents (which may or may not imply the power to delegate) or completely to principals (the best choice). Finally, it should be pointed out that, depending on the laws of each state, it may be possible to accomplish decertification through administrative regulations—as was done in New Jersey.

Suggested Legislation

Bill A

Notwithstanding any other provisions of law, the qualifications for teaching in the public schools of this state shall be determined by the superintendents of public school districts and by the principals of public schools.

Repealer Clause . . .

Bill B

Notwithstanding any other provisions of law, the qualifications for teaching in the public schools of this state of all teachers employed after the

effective date of this law shall be determined by the superintendents of public school districts and by the principals of public schools.

Repealer Clause . . .

Bill C

Notwithstanding any other provisions of law, the qualifications for the initial employment of teachers in the public schools of this state shall be determined by the superintendents of public school districts and by the principals of public schools.

Repealer Clause . . .

Bill D

As an alternative to the provisions of Chapter ____, Paragraph ____of this Code, the superintendents of public school districts and the principals of public schools may determine the qualifications for teaching in the public schools of this state.

EXTRAORDINARY PERFORMANCE PAY FOR TEACHERS ACT

Both merit pay and career ladder systems have at their roots the larger idea of a performance-based reward system, a concept of rewarding teachers in some manner for performance. The performance measured could be that of an individual teacher, a group of teachers, or the meeting of school-wide or district-wide goals. The reward is usually defined in dollars, but could include tuition assistance, sabbaticals, or other kinds of bonuses. Currently, five performance-based reward plans are receiving considerable public attention. The Florida, Tennessee, California, Los Angeles, and Charlotte-Mecklenburg plans are teacher-ranking systems that provide career ladders with salary increases. For instance, Governor Lamar Alexander's Tennessee Plan includes career levels and accompanying salary increases from $1,000 to $7,000, depending on the career level and the length of the teacher's contract. Career level teachers are also assigned additional responsibilities.

Other popular plans such as Houston's Second Mile Plan provide rewards based on organizational and district-wide goals rather than directly or indirectly on teaching performance. For example, public school teachers in Houston choosing to remain in schools with a high proportion of educationally disadvantaged students can qualify for incentive pay if other clear cut requirements are met. Participants must hold a valid teaching certificate; be assigned to a school or instructional site; be a certified teacher with a bachelor's, master's, or doctoral degree; have an acceptable rating on the most recent evaluation; have five or fewer days of absence during the current school year; have no unexcused absences; and be a full time teacher, nurse, or media specialist/librarian.

The Second Mile Plan is attractive to many educators because subjective judgment plays an extremely small part in determining whether or not a teacher is eligible for a stipend. The most common complaint about performance-based reward systems is that teacher performance, a key component of such systems, is difficult to measure. Many of the old merit pay plans failed because of poor evaluation processes and the mistrust they generated. The solution seems to lie in a well constructed evaluation plan for teacher performance.

There are three important components to teacher evaluation: 1) the purpose of the evaluation, and how its results will be used; 2) the criteria used for judging teacher performance; and 3) who will do the evaluation. Objections have been raised to decisions concerning these components more than any others inherent in teacher evaluation. Consequently, a performance-based reward system will only be effective when these issues are thoroughly addressed.

Generally speaking, the purpose of an evaluation is to judge the worth and

measure the degree to which specified tasks are accomplished. In program or personnel evaluation there are two basic divisions, formative and summative. Formative evaluations provide assistance in the developmental process while summative evaluations examine the final product. In regard to teaching, this means that a reward system can be based on either formative evaluations to help individuals improve their teaching or summative evaluations which simply identify individuals with effective teaching abilities.

Many educators and policymakers design reward systems which are formative evaluation programs. Any progress or improvement in the teaching profession can qualify an instructor for extra pay such as taking more college courses, maintaining a good attendance record, doing extracurricular activities, etc. The only thing that does not pay more is teaching well. Classroom practices which increase instructional effectiveness, student achievement, and academic learning time are either ignored or carry the same weight in evaluation programs as tasks performed entirely outside the classroom. Recently developed career ladders are not aimed at rewarding exemplary teaching performance in the classroom despite the fact that a recent survey conducted by **The American School Board Journal** shows 62.7 percent of a statistically representative sample of teachers agree that they should be paid according to how well they perform in the classroom. Unfortunately, career ladders have become glorified single salary schedules designed to give a significant number of teachers higher wages and more responsibilities.

A performance-based reward system should be aimed at recruiting and retaining **good** teachers—those who instruct, guide, and direct better than most. Seniority, a good attendance record, and extracurricular activities are important, but not crucial to student achievement like instructional effectiveness. If students were asked whether a bad instructor was worthy of a reward or extra pay because of perfect attendance, most would reply that it would have been better had the instructor not come to class at all! Policymakers and educators need to get back to the basics and reexamine the essential skills and qualities intrinsic to the art of teaching. They must not be afraid to create standards and/or criteria to determine and reward the masters of the art.

Since the twin goals of equity and high quality schooling no longer coexist in public education, legislation must be enacted to restore excellence in education. The following piece of legislation requires school districts to adopt extraordinary performance pay plans for elementary and secondary public school teachers who demonstrate exemplary teaching performance in the classroom. The school board of a district must design the plan in consultation with local teachers and administrators. Since reward systems in the past have failed because of premature abandonment, the district must

keep the plan for three years and make improvements on it when necessary. All schools and teachers within the district must participate except first year teachers.

The bill also places conditions on the performance pay plan by requiring the school board to place a strict ceiling no higher than 15 percent on the number of eligible recipients. Moreover, the instrument used for evaluating a teacher's performance in the classroom must clearly define evaluation criteria, link the criteria with some kind of point system, and give more weight to minimum evaluation criteria such as instructional effectiveness, classroom management, and communication skills. The school board must also lay out procedural rules for evaluating a teacher's performance, which should include pre-evaluation and post-evaluation interviews with participants. All too frequently programs are continued without evidence that they are accomplishing their objectives or worth their price. To avoid this pitfall, evaluations of the performance plan should take place each year.

Finally, the principal of a school must perform several important tasks: 1) follow and implement the procedural rules; 2) organize and select evaluators; 3) determine which teachers shall receive the reward; and 4) confer with teachers awarded performance pay to identify the type of reward they would prefer.

The most difficult task for the principal is determining which teachers are eligible for the reward, but it is eased by having the evaluation criteria established and linked to points. Deciding who shall evaluate a teacher is another problem area, but a requirement in the bill stipulates that a teacher shall be evaluated by the principal himself, the department head or immediate supervisor, an expert instructor from another school district who teaches the same subject(s) as the teacher being evaluated, and the teacher's students. The principal need only to select an expert teacher from outside the district. The school board can furnish a list of reputable teachers or after the first year the pay plans are implemented, instructors awarded for their performance can evaluate teachers if they so choose and would not be removed from the classroom more than a few days out of the school year.

If administered properly, performance pay plans can achieve such desired goals as rewarding exemplary teacher performance in the classroom and attracting first-rate high school graduates to pursue lifelong careers as educators. Although a reward plan cannot be viewed as a panacea to solve all the problems in the education system, it can bring about a sense of accomplishment and worth in teachers who have dedicated their lives to the teaching profession. Peformance pay for our educators is one step towards the betterment of the American system of education.

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act shall be known and may be cited as the **Extraordinary Performance Pay for Teachers Act** .

Section 2. *[Purpose.]* The purpose of this act is to require school districts to design and implement extraordinary performance pay plans for teachers who demonstrate outstanding teaching in the classroom.

Section 3. *[Definitions.]* As used in this act, unless context otherwise requires:

(A) "Academic year" means that portion of the school year during which the public schools of a school district are in regular session.

(B) "Board" means the board of education of a school district.

(C) "School" means any elementary or secondary public school of the state.

(D) "Teacher" means an individual who is instructing students in an elementary or secondary public school.

(E) "Extraordinary performance pay plan" means a pay plan which is adopted in accordance with the provisions of this act by the board; is supplemental to the regular salary plan of the school district; and awards teachers exclusively for classroom practices.

Section 4. *[Participants of pay plan.]* School districts shall adopt an extraordinary performance pay plan on a trial basis. The pay plan must stay in effect for three academic years to allow for improvements. All schools and teachers within the district except new or beginning teachers must participate in the pay plan. New or beginning teachers shall have the option to participate the first year they teach in the district. Teachers must participate in the pay plan in order to be eligible for performance pay regardless of whether they received it in the past.

Section 5. *[Funding for pay plan.]* Half of any new funds appropriated for teacher pay shall go towards the school districts' extraordinary pay plans. All monies for the pay plans shall be divided equally among school districts.

Section 6. *[Duties of board.]* The board of every school district shall be obligated to perform the following tasks:

(A) Place a strict ceiling on the number of teachers to receive extraordi-

nary performance pay. The ceiling shall be no higher than fifteen percent (15%) of all teachers in each school district. In other words, a maximum of fifteen percent (15%) of the teachers can be chosen from each school to receive performance pay. After a ceiling is established, the board shall then determine the maximum amount of money to be awarded each teacher eligible for performance pay. More money shall be awarded to those teachers who are deserving of performance pay for the second, third, fourth time, etc.

(B) Choose a good instrument for evaluating teachers' performance in the classroom. The instrument shall be developed or chosen in consultation with local administrators and teachers. It shall clearly define evaluation criteria and link the criteria with some kind of point system. More weight shall be given minimum evaluation criteria such as:

(1) Instructional effectiveness e.g., student achievement in the classroom. Forty percent (40%) of the total points shall be comprised of instructional effectiveness points. This can be accomplished by multiplying such points by 0.4.

(2) Classroom management skills e.g., methods of discipline. Thirty percent (30%) of the total points shall be comprised of classroom management skill points. This can be accomplished by multiplying such points by 0.3.

(3) Communication skills e.g., ability to present and discuss ideas. Thirty percent (30%) of the points shall be comprised of communication effectiveness points. This can be accomplished by multiplying such points by 0.3.

(C) Lay out procedural rules for evaluating teachers' performance in the classroom. Procedural rules shall include:

(1) A pre-evaluation interview or meeting with the teachers about the objectives of the pay plan and the instrument of evaluation;

(2) Yearly classroom observations of teachers;

(3) Review of indicators of student progress;

(4) A post-evaluation interview with randomly selected participants focusing on general opinions of the plan, suggestions for improvement, and reasons why the plan is desirable or undesirable;

(5) A post-evaluation questionnaire to teachers who received awards in order to assess the attainment of the pay plan's objectives such as whether the award was motivating enough to continue excellent performance;

(6) A post-evaluation overall assessment of the pay plan by the evaluators and the board using data derived from the interviews, questionnaires and yearlong observations.

Section 7. *[Duties of principal.]* The principal of a school shall be obligated to perform the following tasks:

(A) Follow and/or implement the procedural rules in Section 6(C) and any other rules adopted by the board;

(B) Organize and select evaluators. A teacher shall be evaluated by the principal, the department head or immediate supervisor, an expert instructor from another school district who teaches the same subject(s) as the teacher being evaluated, and the teacher's students;

(C) Determine which teachers shall receive performance pay based on:

(1) the number of points accumulated on the evaluations: and

(2) the number of teachers to receive performance pay in the school as determined by the board.

(D) Confer with teachers awarded performance pay to identify the type of reward they would prefer e.g., direct payment for the amount awarded, extra resources for their classroom, conference attendance, partial or full tuition at the college of their choice, etc.

Section 8. *[Severability clause.]*

Section 9. *[Repealer clause.]*

Section 10. *[Effective date.]*

SCHOOL DISCIPLINE MEASURES

Rather than teaching the lessons of good will, civility and wisdom, schools are filled with crime, violence, and general disorder. The widespread recognition of indiscipline in public schools is evident in recent surveys. For 14 out of the past 15 years, the Gallup Education Poll has identified lack of discipline in public schools as the number one problem in American education. Over 80 percent of minorities believe disorder to be a serious problem, compared to 60 percent of the white population. Studies also show that discipline is the second most frequent reason given by parents for transferring their children from public to private schools.

The most comprehensive data on school crime published in 1978 for the National Institute of Education's Safe Schools Study revealed that three million secondary students were victims of attack, robbery, or theft each month in the public schools. Moreover, almost eight percent of urban junior and senior public high school students missed at least one day of school a month because they were afraid to go to school. During a testimony before a Senate Subcommittee in March 1984, Gary Bauer from the U.S. Department of Education reported that crimes against teachers and use of strong drugs has increased since the six-year-old federal study. Assaults on teachers increased by 59 percent and theft of teachers' property increased by 46 percent. Between 1976 and 1979, use of alcohol, cigarettes, and tranquilizers declined, but use hallucinagens, cocaine, sedatives, and stimulants increased.

The National Education Association, on the other hand, found a decline in crimes against teachers. In a poll of its members released in July 1984, 3.7 percent reported being physically attacked in the past 12 months, compared with 5.2 percent in 1980. And 12.9 percent had personal property damaged or stolen by a student, compared with 15.4 percent in 1980. Statistical comparisons showing signs of regress or progress in student behavior have been made by other individuals or groups. Nevertheless, it still can be said with certainty that lack of discipline is a serious problem in public schools and any debate whether school violence is on the rise or not is largely meaningless.

In a major 1983 study of school violence, Jackson Toby, Director of Rutgers University's Institute for Criminological Research, concluded that the NIE data had probably **understated** the actual incidence of school violence at the time the survey was conducted. The most current data available from various school districts and states reflect a disturbingly large amount of teacher and student victimization. One study conducted in 1983 for the Boston Safe Schools Commission found that half of the teachers in the Boston public schools had been victimized on school property at least

once during the preceding year. Over one out of ten teachers (11.6 percent) had been victimized five or more times and one out of three teachers (32 percent) said they were quite, very, or extremely afraid while at school. Brutal outbreaks of violence in the schools by students and intruders (particularly in larger cities) are one cause of teacher fear. In New York City, a substantial increase in elementary incidents seemed to be intruder related. For example, forceable theft in elementary school was up 35 percent in 1982-83 compared to 1981-82.

In the state of California during a five month period in 1981, an average of 24 teachers and 215 students were assaulted every day, and property damage amounted to $10 million. For the 1982-83 school year, the Los Angeles Unified School District reported 13,154 incidents of violations of law and property loss of $5.9 million. The high incidence of crime as well as a lawsuit brought against the Los Angeles school district charging a violation of the rights of students by compelling them to attend public schools where there is excessive violence, played a major role in the overwhelming adoption in 1982 by California voters of Proposition 8 which contains the following provision:

> "All students and staff of primary, elementary, junior high, and senior high schools have the inalienable right to attend campuses which are safe, secure, and peaceful."

Cities like Chicago, which have reported declines in school crime, continue to have cause for concern. A 1979 study by the Chicago American Federation of Teachers (AFT) indicated that less than one in three attacks on teachers were reported. The 1983 Boston survey revealed similar underreporting of crimes. Only 65 percent of students, and an astonishing 28 percent of teachers, victimized by school violence reported the incidents to officials because of the lack of confidence that wrongdoers would be punished.

In January 1983, a Presidential Cabinet Council Working Group published a report entitled "Disorder in Our Public Schools" in which several explanations were given for the failure of many school officials to effectively instill discipline. One reason was their fear of appearing incompetent to the community by calling attention to acts of violence or disruption. Another was legal procedures which prevent effective prosecution. School administrators are unable to deal with wrongdoers without fear of civil suits by students who feel their rights have been violated. "Students' rights" advocates such as the American Civil Liberties Union have enjoyed considerable success in the courts. More frequently than not, court decisions have actually crippled the authority of teachers, administrators, and school boards

by mandating due process procedures entitling problem students to protection from search, hearings, witnesses, appeals, and legal counsel. For example, until recently, Boston public secondary school students received a handbook called "The Book" which contained thousands of words on students' rights, but only 11 lines referring to their responsibilities.

Since the disciplinary process has become distorted in the public schools, it is not enough for students, teachers, and parents to demand that disruptive and criminal acts be punished. The general public must also encourage the implementation of crime prevention policies giving school officials the authority to exercise discipline. Moreover, lawmakers and school officials must review, design, and direct disciplinary measures. The following collection of bills are designed to make public schools safe havens from crime.

The first four bills are modeled after legislation introduced in the California Assembly by a bipartisan group of state legislators to discourage crime on campus. The Campus Crime Act provides increased penalties for crimes committed against any person or school property. The suggested maximum penalty for all on-campus assault and battery is one year in jail or a fine of $1,000 or both. The School Access to Juvenile Record Act allows the juvenile courts to inform public or private school teachers and administrators about the criminal histories of students who committed sex crimes or acts that led to serious bodily injury. The courts may also provide names of students charged with using, selling, or possessing narcotics. Many federal and state laws restrict the sharing of student records between juvenile courts and school officials. However, unless behavior-problem students are identified the safety of a school campus is greatly lessened or completely foreclosed.

Since many school districts say their crime problems are often caused by outsiders, the Access to School Premises Act makes it a misdemeanor for outsiders to fail or refuse to promptly leave school grounds after being requested to do so by a school official. Moreover, individuals who are not students or employed by the school must register their presence at the school before being permitted on the campus. To insure campus safety, school administrators must know who is on school grounds.

The School Crime Report Act requires uniform crime reporting by school districts. Schools must keep records of the frequency of criminal offenses in order for school districts and lawmakers to effectively design and direct crime prevention policies. Frequently, authorities become aware of danger in the schools only after an outburst of violence or after a problem has become so serious that it is impossible to hide.

Another bill entitled School Discipline Policy Act modeled after a law in Arkansas, requires each school district to develop student discipline policies in compliance with guidelines set forth in the bill and adopted by the

state's department of education. Student discipline policies must make clear which kinds of misconduct shall be handled within the school and which shall be reported to the police. In addition, due process procedures must not impede a school administrator or teacher's ability to enforce rules. No policy shall limit or restrict the bringing of criminal charges against any person for violating criminal laws.

1. CAMPUS CRIME ACT

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act shall be cited as the **Campus Crime Act** .

Section 2. *[Purpose.]* This act provides an increased penalty for assault and alternative felony-misdemeanor punishment for battery when the victim is any person on school property.

Section 3. *[Definition.]* "School" in this act means any elementary school, junior high school, four-year high school, senior high school, adult school or any branch thereof, opportunity school, continuation high school, regional occupational center, evening high school, or technical school.

Section 4. *[Penalty for assault.]* When an assault is committed on school property against **any** person, the assault is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Section 5. *[Penalty for battery.]* When a battery is committed on school property against **any** person, the battery is punishable by a fine not exceeding one thousand dollars ($1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

Section 6. *[Funding.]* No appropriation is made and no reimbursement is required by this act because the only costs which may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or

infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Section 7. *[Severability clause.]*

Section 8. *[Repealer clause.]*

Section 9. *[Effective date.]*

2. SCHOOL ACCESS TO JUVENILE RECORD ACT

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act shall be cited as the **School Access to Juvenile Record Act** .

Section 2. *[Purpose.]* This act requires that a court finding a minor of compulsory school age guilty of having committed crimes involving serious bodily injury or narcotics provide a written notice about the criminal offense to school officials and teachers directly responsible over the minor.

Section 3. *[Confidentiality of juvenile records.]* A petition filed in any juvenile court proceeding, reports of the probation officer, and all other documents filed in any such case or made available to the probation officer in making his report, or to the judge, referee or other hearing officer, and thereafter retained by the probation officer, judge, referee, or other hearing officer, may be inspected only by court personnel, the minor who is the subject of the proceeding, his parents or guardian, the attorneys for such parties, and such other persons as may be designated by court order of the judge of the juvenile court upon filing a petition therefor.

Section 4. *[Access to narcotics records.]* Notwithstanding Section 3, written notice of the filing of a petition in juvenile court alleging that a minor of compulsory school age is a person using, selling, or possessing narcotics or a controlled substance, may be provided by the district attorney, within 48 hours, to the superintendent of the school district or principal of the private school of attendance. The district attorney need

not obtain a court order prior to providing this notice to the superintendent.

Section 5. *[Access to criminal assault and battery records.]* Notwithstanding Section 3, written notice that a minor of compulsory school age has been found by a court of competent jurisdiction to have committed either a crime of violence which resulted in serious bodily injury or any sexual assaults, shall be provided by the court, within 48 hours, to the superintendent of the school district or principal of the private school of attendance, which information shall be expeditiously transmitted to each teacher or administrator with direct supervisorial or disciplinary responsibility over the minor.

Section 6. *[Funding.]* The sum of ____dollars ($____) is hereby appropriated from the state budget to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

Section 7. *[Severability clause.]*

Section 8. *[Repealer clause.]*

Section 9. *[Effective date.]*

3. ACCESS TO SCHOOL PREMISES ACT

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act shall be cited as the **Access to School Premises Act** .

Section 2. *[Purpose.]* This act requires those who are not students or employed by the schools to register their presence at a school. It also makes it a misdemeanor for outsiders to fail or refuse to promptly leave school grounds after being requested to do so by a school official.

Section 3. *[Definitions.]* As used in this act, with regard to a public school:

(A) An "outsider" is any person other than:

(1) A student of the school, except those students who are currently suspended from the school.

(2) An officer or employee of the school.

(B) "School grounds" are the buildings and grounds of the public school.

(C) "School hours" extend from one hour before classes begin until one hour after classes end.

(D) "Principal" is the chief administrative officer of the public school.

(E) "Designee" is a person whom the principal has authorized to register outsiders pursuant to this act.

Section 4. *[Registration for outsiders.]*

(A) During school hours, an outsider must register at the principal's office before being permitted on school grounds.

(B) The principal or designee may refuse to register an outsider if he or she has a reasonable basis for concluding that the outsider has no lawful business on the school grounds or the outsider's presence would interfere with the peaceful conduct of the activities of the school or disrupt the school, its students, its teachers, or its other employees.

(C) The principal, designee, or school security officer may revoke an outsider's registration if he or she has a reasonable basis for concluding that the outsider's presence would interfere or is interfering with the peaceful conduct of the activities of the school, or would disrupt or is disrupting the school, its students, its teachers, or its other employees.

Section 5. *[Penalty for outsiders refused admittance and subsequently found on school grounds.]* It is a misdemeanor punishable by imprisonment in the county jail not to exceed six (6) months, or by a fine not to exceed five hundred dollars ($500), or by both, for an outsider to fail or refuse to leave the school grounds promptly after the principal, designee, or school security officer has requested the outsider to leave or who fails to remain off the school grounds for 72 hours after being requested to leave, if the outsider does any of the following:

(A) Enters or remains on school grounds without having registered as required by Section 4(A).

(B) Enters or remains on school grounds after having been denied registration pursuant to Section 4(B).

(C) Enters or remains on school grounds after having registration revoked pursuant to Section 4(C).

Section 6. *[Funding.]* No appropriation is made and no reimbursement is required by this act because the only costs which may be incurred

by a local agency or school district will be incurred because this act creates a new crime or infraction, changes the definition of a crime or infraction, changes the penalty for a crime or infraction, or eliminates a crime or infraction.

Section 7. *[Severability clause.]*

Section 8. *[Repealer clause.]*

Section 9. *[Effective date.]*

4. SCHOOL CRIME REPORT ACT

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act shall be cited as the **School Crime Report Act** .

Section 2. *[Purpose.]* This act requires the state department of education in consultation with the state department of justice to develop a standard school crime reporting form for use by all school districts. It also requires school districts to report school-related crime quarterly to the county superintendent of schools.

Section 3. *[School crime report form.]* By June 30, 1986, the state department of education, in consultation with the state department of justice, shall develop a standard school crime reporting form for use by all school districts throughout the state. The form shall define what constitutes the criminal activity required to be reported and shall include, but not be limited to, the following:

(A) Type and frequency of criminal incident.

(B) Crimes against the person including:

(1) Description of crime.

(2) Age and sex of the offender and whether the offender is a student or nonstudent. If the offender is a student, whether he or she attended the school where the crime occurred or another school, and whether he or she was under school suspension or expulsion at time of the offense.

(3) Age and sex of the victim and whether the victim is a student or nonstudent. If the victim is a student, whether he or she attended the

school where the crime occurred or another school. If the victim is a nonstudent, whether he or she was employed at the school and, if so, in what capacity.

(4) Where, at what time of day or night, and under what circumstances the incident occurred.

(5) The cost of the crime to the school and to the victim.

(C) Crimes against property including:

(1) Description of the crime.

(2) Where, at what time of day or night, and under what circumstances the crime occurred.

(3) The cost of the crime to the school and to the victim.

Section 4. *[Responsibilities of the state department of education, school district, and county superintendent of schools.]* On forms prepared and supplied by the state department of education, each school district shall report school-related crime quarterly to the county superintendent of schools. The county superintendent of schools shall compile the data and, within 30 days, report this data to the state department of education. The information received from the various county superintendents shall be compiled and annually reported to the Legislature by the state department of education. The department shall also make this information available to school districts and the public. The report shall deal with crimes against persons and property separately and shall include the cost of these crimes to the victims and to the school districts.

Section 5. *[Funding.]* The sum of ____dollars ($____) is hereby appropriated from the state budget to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

Section 6. *[Severability clause.]*

Section 7. *[Repealer clause.]*

Section 8. *[Effective date.]*

5. SCHOOL DISCIPLINE POLICY ACT

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act shall be cited as the **School Discipline Policy Act**.

Section 2. *[Purpose.]* This is an act to require the department of education to develop guidelines for the development of school district discipline policies; to require each school district in this state to develop student discipline policies in compliance with such guidelines; to require the department of education to monitor the implementation of student discipline policies; and for other purposes.

Section 3. *[Guidelines for discipline policies.]* The department of education shall establish guidelines for the development of school district student discipline policies. In developing the state guidelines for such policies, the department of education shall involve parents, students, teachers, and administrators. The guidelines shall include, but not be limited to, the following requirements:

(A) Parents, students, and local school district personnel, including teachers, shall be involved in the development of school district student discipline policies.

(B) Student discipline policies shall include, but not be limited to, the following offenses:

(1) willfully and intentionally assaulting or threatening to assault or abuse any teacher, principal, superintendent, or other employee of a school system;

(2) possession by students of any firearm, or other weapon prohibited upon the school campus by policies adopted by the school board;

(3) using, offering for sale, or selling beer, alcoholic beverages or other illicit drug by students on school property;

(4) willfully or intentionally damaging, destroying, or stealing of school property by students.

The school discipline policies shall prescribe minimum and maximum penalties, including suspension or dismissal from school, of students for violations of each of the aforementioned offenses, and for violations of other practices prohibited by school discipline policies. The policies must make clear which kinds of misconduct shall be handled within the school and which shall be reported to the police. The policies must also establish procedures for notice to students and parents of the enforcement and administration of such policies by school administrators and by the school board. However, such due process procedures must not impede a school administrator or teacher's ability to enforce rules.

(C) Student discipline policies shall provide that parents and students be advised of the rules and regulations by which the school is governed

and be made aware of the behavior that calls for disciplinary action and the types of corrective actions that may be imposed.

(D) Each school district shall develop a procedure for written notification to all parents and students of the district's student discipline policies and documentation of the receipt of such policies by all parents and students.

(E) Teachers and administrators shall be provided with training as needed in classroom management and in other skills relevant to student discipline.

Section 4. *[Duties of school districts.]* Each school district in this state shall develop written student discipline policies in compliance with the guidelines established by the department of education and shall file such policies with the department of education no later than October 1, 1985. Any amendments or revisions to a school district's student discipline policies shall be developed and adopted in the same manner as the original policies required by this Act and shall be consistent with the guidelines established by the department of education. Any amendment or revision to the student discipline policies adopted by a school district shall be submitted to the department of education within thirty (30) days after the adoption of such amendment or revision.

Section 5. *[Administrative procedures and penalties for noncompliance.]* The department of education shall monitor compliance with the requirements of this Act and the state board of education shall adopt rules and regulations for the administration of the requirements of this Act.

Any school district failing to file the disciplinary policy required by this Act by November 1, 1985, with the department of education, shall have all state aid funds withheld until such regulation is filed with the department of education.

Nothing in this Act, or any student discipline policies promulgated under this Act, shall limit or restrict the bringing of criminal charges against any person for violating the criminal laws of this state.

Section 6. *[Severability clause.]*

Section 7. *[Repealer clause.]*

Section 8. *[Effective date.]*

STATES' ROLE IN EDUCATION

PRIVATE SCHOOL ACT

The role of the state in education has been defined for quite some time. It was the supposition of the nineteenth century reformers that the state was to serve as an objective arbiter between conflicting ideologies. The lawgiver was viewed as the messianic reformer who would devise profound and far-reaching plans and establish institutions which would work for the good of the people. Most government officials and educators still see themselves as messianic reformers and adhere to the belief that schooling is the key to curing society's ills. Unfortunately, despite all good intentions, the state's plan for educating the populace since the early 1800s undercuts the most basic freedoms of democracy. The assumption made by education reformers of the past and present that man-made institutions can be trusted because men are rational, objective and benevolent has proven to be most naive.

No human being is value free or leads life without following some philosophical persuasion; therefore, neither should it be assumed that educational institutions developed by human beings are value free. Teachers' attitudes, the structure of the classroom, the way the school is governed by the state, and the approved textbooks all convey messages about how one should conduct his life and what to believe. Public schools are instruments of national purpose. They are government temples of learning which inculcate the philosophy held by the majority of state officials and professional educators. Parents who oppose school authorities on issues of home education, private school standards or content of curriculum know that the courts and the state are in the business of upholding and entrenching the legal fiction that schooling can be value free. Parents know that being value free is neither a neutral position nor consistent with individual freedom, despite arguments to the contrary. In the wake of the state's fervent desire to remove traditional or religious beliefs from the public schools, it has filled the moral and philosophical vacuum with ideologies of its own. Public schools have

become "temples" of social reform—advocates of a communal society as opposed to a competitive, and capitalistic one. Hence it is not at all surprising that educators cringe at the notion of competition between public or private schools. This bent of the public schools is evident upon examination of the specific ways the state controls education.

State schools operate within a constitutional framework quite different from our own. Educational policy is basically out of the hands of local educators. They must answer to members of the state educational bureaucracy or unions which have their own bureaucratic structure. Curriculum, textbooks, discipline procedures and methods of instruction are generally not of their own choosing. Even their education is carefully monitored by the state. Before a teacher can enter a public school classroom, he or she must take courses approved by the state in order to obtain certification from a state controlled teacher college or a seat of learning which adheres to state mandates for teacher education.

Parents and students have even less input in regard to educational policy. A "good" parent is one who surrenders his child to the public school and does not "make waves" concerning the subject matter and values taught in the classroom. Parents are to believe that public education is fundamental to America's prosperity, provides the best education to the most people with the least amount of money, preaches no religious, political or philosophical tenets, and promotes freedom and individualism. Much to the chagrin of parents and students, public schools do none of these things and most concerned citizens do not know what to do about it.

Many parents, educators and lawmakers agree that a total alteration of the relationship between the state and the education process is in order. But how to go about restructuring American schooling such that it is patterned after and puts into practice our basic constitutional rights is more difficult to discern, let alone implement. Universal education where individual values are suppressed for the sake of a supposed higher value of collective sameness can be avoided and pluralism supported by promoting private schools, so long as those schools are not encroached upon by the state.

Private schools are an extension and expression of the community and parents, otherwise they would not exist. They provide an educational experience distinct from the state's, and in so doing, are the most important mediating structure in terms of preserving educational and religious liberty.

The following bill entitled Private School Act is one measure to eradicate mandated uniformity in education and preserve private education. It allows private schools to instruct students with the least amount of state interference. Cooperation with state and local officials is required in regard to health and safety regulations and maintenance of immunization and attendance records. But the bill does not require private schools to include in

their curricula any concept, topic or practice conflicting with any of their religious doctrines or other beliefs. Nor does it require state certification of private school teachers or state licensing of private schools.

Suggested Legislation

(Title, enacting clause, etc.)

Section 1. *[Short title.]* This act may be cited as the **Private School Act** .

Section 2. *[Definitions.]* As used in this act, the term

(A) "Private schools" means all nonpublic schools including religiously affiliated schools that receive and instruct children of compulsory school age.

Section 3. *[Compulsory school attendance.]* Attendance by a child at any school to which this Act relates and which complies with this Act shall satisfy the requirements of compulsory school attendance.

Section 4. *[Duties of private schools.]* In order to satisfy the requirements of compulsory school attendance for its students a private school shall:

(A) Maintain records on student attendance and disease immunization and make such records available to the local board of education on request;

(B) Operate on a regular schedule, excluding reasonable holidays and vacations, during at least nine (9) calendar months of the year;

(C) Be housed in a building that complies with applicable local health and safety regulations;

(D) Provide an organized course of study in science, reading, language arts, mathematics and history. This subsection does not require the private school to include in its curriculum any concept, topic or practice in conflict with any of its religious doctrines or other beliefs or convictions or to exclude from its curriculum any concept, topic, or practice consistent with its religious doctrines or other beliefs or convictions.

Section 5. *[Standardized testing requirements.]* Each private school shall administer, at least once in each school year, a nationally standardized test or other equivalent measurement selected by the chief administrative officer of such school, to all students enrolled in grades one, two, three, six, and nine. The nationally standardized test or other equivalent

measurement must measure achievement in the areas of English grammar, reading, spelling, and mathematics. Each school shall make and maintain records of the results achieved by its students. For one year after the testing, all records shall be made available at the principal office of such school for annual inspection by a duly authorized representative of the state of _____.

Section 6. *[Voluntary participation in state programs.]* Any private school may, on a voluntary basis, participate in any state-operated or state-sponsored program which would otherwise be available to such school, including but not limited to, statewide testing programs.

Section 7. *[Optional participation in classes and activities of public schools.]* No child exercising his rights under the provisions of this act shall be denied the use of public school buildings, facilities, and resources; access to public school personnel; or participation in public school classes and activities, including extracurricular activities; subject only to the same rules applicable to students otherwise in full attendance.

Section 8. *[Requirements exclusive.]* No school, operated by any church or other organized religious group or body as part of its religious ministry, which complies with the requirements of this Act shall be subject to any other provision of law relating to education except requirements of law respecting fire, safety, sanitation, and immunization.

For those states requiring minimum competency for graduation from public high schools:

Section 9. *[High school competency testing.]* Each private school shall administer at least once in each school year, a nationally standardized test or other equivalent measurement selected by the chief administrative officer of such a school, to all students enrolled and regularly attending the eleventh grade. The nationally standardized test or other equivalent measurement must measure competencies in the verbal and quantitative areas. Each private school shall establish a minimum score that must be attained by a student on the selected test in order to be graduated from high school. For one year after the testing, all records shall be made available at the principal office of such schools at all reasonable times, for annual inspection by a duly authorized representative of the state of _____.

CITIZENSHIP EDUCATION RESOLUTION

Surveys show a trend that some have described as a moral decline among young people. According to federal statistics, the rate of out-of-wedlock births to white females aged 15 to 19 has risen by 800 percent since 1940; the rate of death by homicide for white males, 15 to 24, climbed 315 percent from 1955 to 1981, while the suicide rate for the same group increased by 238 percent during that period. The statistics for other categories of young people are equally if not more dismal. Sociologists note that one great reason for rising crime rates and the breakdown of society's moral culture is the decline of the family unit. Concomitant with the weakening of the family structure is the diminishing emphasis on ethics and values in our public schools.

The Thomas Jefferson Research Center reports that in 1775, religion and morals accounted for more than 90 percent of the content of school readers. By 1926, the figure was only six percent. Today, morals are almost nonexistent in school texts. A study of third grade readers reported that references to obedience, thoughtfulness, and honesty began to disappear after 1930.

It is axiomatic that for a society to provide "the good life" and for an individual to experience it, the morality which sustains that society must be deeply rooted and widely held. Additionally, every sensible person must agree that this escalating moral crisis, when considered in a school setting, is an impediment to a good, or even a basic, education. On top of the above mentioned problems, rampant cheating, classroom disturbance and violence, contempt for authority, and illicit absenteeism have contributed as much as anything else to the decline of effective education. If proper morals are conducive and even essential to education, a happy life, and a healthy society, the question then becomes one of how these desirable ethics are to be best inculcated.

Many legislators, educators, and parents believe that the proper place for moral education is in the home. They cite the instances of school sex education classes which raise vital moral questions yet fail to impart morality along with biological information. Many contend that in areas such as "sex-ed" it would have been better had the schools never dealt with the subject at all since what often resulted amounted to an invitation to promiscuity and a subtle pressuring of students into accepting deviant sexual personalities as "alternative lifestyles."

Criticism such as this can be noted and well taken and yet be distinguished from a criticism of moral education in its entirety. First, it is arguable that information about sex is not essential to the proper functioning of a school. A moral void, however, about the inappropriateness of cheating to get ahead or of using violence to get what one wants results in diminished educational effectiveness. Second, while it is true that the family should be the primary

educator in the realm of morals, it needn't be the sole educator; what homes supply by means of example and discipline, schools can reinforce (or if lacking at home, insist upon) through their own disciplinary measures and through frank discussions of moral behavior guided by convention and right reason. As the Honorable Charles E. Bennett said in testifying before a House Subcommittee:

> "The home and the church can no longer be solely relied upon. Today they are least available where most needed. These institutions today are no longer equipped to handle the job without help from our schools. Those children who are most in need of instruction are getting it least."

Finally, for educators to make no statement about ethical behavior upon which the achievement of a happy life unquestionably depends, would be to abdicate that responsibility to fellow students or the mass media. And these other sources are, more often than not, adrift on the same seas of permissiveness and moral upheaval that afflicts today's adolescent.

If a case, then, can be made for some form of moral education, the most important inquiry centers around discovering and delineating legislatively what form that education should take. It need hardly be said that ethics as a subject of study is fraught with difficulties. Moral education is often seen by those hostile to it (and even by some of its friends) as, at root, religious. Such education, if not carefully crafted, could be criticized as breaking down the "wall of separation" between church and state, a theory currently much in favor with the federal courts. Moreover, if not carefully and continually monitored, "values education" could become little more than "values clarification."

Although promoting positive values in public schools is difficult in a pluralistic society, a Gallup Poll recently revealed that 79 percent of the public favored "instruction in the schools that would deal with morals and moral behavior." Only 15 percent were opposed. And, as the Center for Action Research points out, such instruction could be carried out completely "within Constitutional limitations." Indeed, the first Values Education Commission in America established in Maryland found that there is "nothing in Court decisions that would preclude the teaching of ethical content. It has been made equally clear that the schools have both the right and the duty to instill into the minds of pupils those moral principles which are so necessary to a well ordered society."

A far more worrisome problem is the possibility that well meaning state legislators may open the door to a form of "moral education" which actually undermines whatever ethical standards to which students may precariously

adhere. This form of education, under the name of "values clarification" or one of its aliases, seeks not to instill what anyone would call traditional moral values. Rather, its methods open up for discussion an individual student's personal moral convictions or inclinations and subject them to ruthless and usually unprincipled scrutiny and/or substitute some form of moral relativism in place of the students' own "guiding lights." Instead of insisting that, for example, habitual dishonesty is objectively wrong, students come away from values clarification thinking that the particular situation dictates morality. Therefore, students are instructed not to judge each other, neither their actions nor their motives, and that what might be moral for them needn't necessarily be moral for others.

Rather than moral education, values clarification sessions become exercises in justifying self-centered behavior. Far from giving young people an intellectual grounding in ethics, the classroom is used as a rehearsal of excuses for dangerous or otherwise anti-social actions. The point cannot be made strongly enough. If moral education is not exactly that—learning to live one's life in an ethical fashion in accordance with values that have sustained Western civilization over the centuries—then it is better that such education not be legislatively mandated.

But the question still remains how traditional morals can be taught without running afoul of recent interpretations of the U.S. Constitution's First Amendment. If all moral teaching were revelational, this indeed would be an insurmountable problem. It has been suggested, however, that there are two non-religious foundations for consensual moral principles and values. Since it would take a chapter in and of itself to define, argue for and conclusively prove such foundations, it must suffice here to set them forth in a general way.

The first such basis is convention or, as Rousseau might put it, the social contract. Simply put, this approach would be to examine the "rules" which those who choose to live in our society are bound to observe. These should be examined with it always in mind and articulated by teachers that without these parameters of conduct, society would not long exist. Virtues such as respect for legitimate authority, obedient observance of the nation's laws, and reasoned patriotism should be presented in the light of preserving our society which conveys benefits and protects freedoms as well as any in history. Thus, the writings of the Founding Fathers, and their intellectual descendants such as Lincoln, should be extolled and, if students are old enough, read in the original forms.

The second foundation is called variously "right reason" or "natural law," but merely means those modes of conduct applicable to all mankind at all times. While this may seem to be a tall metaphysical order, what is envisioned here is the promoting of rather "work-a-day" virtues such as

honesty, respect for others' property, and kindness toward all. Recourse need not be made to religion. Having students reflect with common sense on the great records of human dilemmas found in the classics provide more than enough material for discussion. One cautionary note, however: Certain topics should be avoided both because of the difficulty of their resolution and because of the possibility of offending religious sensibilities. Public school need not be the forum for a discussion on abortion or contraception. What is contemplated here is the inculcation of basic ethics which can be easily, yet forcefully presented.

There are three categories of values which should be emphasized: civic, familial, and personal. Elementary school is the appropriate place to instill in students a desire to obtain these virtues. School materials must provide good role models and attitudes that foster a sense of morality. Civic virtues such as respect for the law and love for one's country can easily be incorporated into government or history textbooks simply by praising law abiding citizens and showing what a society would be like without some rules and regulations. Familial virtues such as respect for one's parents and fidelity as well as personal virtues like courage, temperance, and perserverance can be emphasized in all aspects of school life by either reading good literature or encouraging sportmanship during games.

Since the inculcation of and devotion to civic, familial, and personal virtues are vital to the success of a school and the happiness of an individual, the state of Maryland in 1978 adopted and implemented a resolution creating a commission to identify and assess ongoing programs in morals and values education in public schools. Its goal was to formulate recommendations that would reinforce America's traditional adherence and devotion to high standards of moral and ethical conduct in personal and public life. The following resolution is modeled after Maryland's in terms of purpose and language. There is a difference, however, in that programs incorporating values clarification or moral relativism are specifically excluded because they contribute to the breakdown of standards of individual behavior.

Suggested Resolution

WHEREAS, Our fellow citizens generally are greatly concerned today by the apparent diminution of our traditional adherence and devotion to high standards of moral and ethical conduct. This concern is felt to pervade the areas of both private and personal interrelationships and public governmental activities;

WHEREAS, Unhappily, all too often one ooserves or learns by

extensive publicity of breakdowns in the normal standards of individual behavior and violations of public trust;

WHEREAS, Although the great majority of our people are aware of this unhappy condition, a sense of helplessness as to how to bring about a remedy appears to have taken hold of their consciousness. Concentrated attention to procedures which might serve to inculcate an appreciation of and devotion to our best values is needed. Responsibility for formulating a broad program of values education surely rests on the popularly elected State Legislature as well as educators;

WHEREAS, The obvious first problems to face are: "Where do we begin, and how far do we go?" Our leading national thinkers, educators, clergymen, and learning experts agree that the elementary school is the appropriate place to start a program of appreciation of ideals and desirable personal and public conduct. It is at this time students develop positive attitudes about our form of government, moral codes, and value judgments.

WHEREAS, The early school years are especially important because a critical stage of development is beginning—that of thinking in the abstract, making judgments that will form the basis of character for the years to come.

WHEREAS, There are large numbers of parents and educators who feel deeply that today's society and particularly our schools, must address this void in the educational orientation and development of our children; now, therefore, be it

RESOLVED BY THE STATE OF _____, That the Governor appoint a 20-member Commission, with adequate funding, for the purpose of identifying and assessing ongoing programs in moral and values education in the schools of (state) and to make recommendations toward the implementation of Moral Education into the curriculum.

The Commission should be balanced between the State and local level, and comprised of representatives from the private and public sector.

Suggested materials should include materials that provide good role and good deed models and attitudes that foster a sense of civic morality. Examples are: Lives of our early founders, great Americans of the past and present, the great documents which were the basis of the heritage of America, notable statements of principle by recent minds that emphasize devotion to ethical and moral values; and be it further

RESOLVED, That this program should not require a separate course designation with its own block of time in a school period. It could, however, be an addition to or used in conjunction with all areas of the curriculum with special emphasis in Social Studies or American History. To be useful, though, it would need to be treated as a distinct element of each course with its own resources and its own unique implementation format. **This** type of "values" program will serve to foster a respect for high standards of conduct and help students make effective value judgments, and to familiarize them with their "place in the world"; and be it further

RESOLVED, That since moral relativism is in large part responsible for the moral chaos in schools and in society at large, this program shall **not** be construed as advocating "situation ethics," "values clarification" or other morally relativistic philosophies which presuppose a substantive equivalence between all ethical systems and a degree of sophistication on the part of students to articulate and defend morality which teenagers and children do not possess. Any "values program" which employs "survival games," "diaries" or other techniques designed to lay bare for public discussion any individual's ethics or personal convictions without his volunteering to do so and/or puts students in the position through improbable and rigid hypothetical questions of deciding who is to die or suffer harm and under what conditions, is not in accordance with this program; and be it further

RESOLVED, That it is initally the sense of this legislative body that the type of "moral and values education" described is desirable from the point of view of elevating the general ethical and moral standards of our future citizens.

GUIDELINES FOR SCHOOL FINANCE

During the seventies, there were major structural changes in the school finance systems of over 30 states. Judicial activists, reform oriented governors and state legislators pushed to finance equal education opportunities for all students. Laws were implemented to reduce varying expenditures per pupil by shortening the link between spending levels and local district property wealth. Most school finance reforms were "bought" in order to equalize monies available to poor districts without hurting the wealthy ones. School finance programs became expensive since they were reform by addition—new money, new programs, and new interest groups. They brought about fiscal equity, but increased the level of dollars allocated to public schools.

Today, the public is demanding improved quality from the nation's schools. The strategy of the seventies to spend more money for school improvement programs is no longer feasible. Most states are struggling to maintain the status quo in their school finance programs. The federal government is allocating less aid to the states and the states in turn are allocating less to the local governments. Moreover, several hundred studies show there is no systematic relationship between spending and achievement. The states that spend the most do not necessarily achieve the most. In 1951-52, $11.7 billion was spent on education compared to $200 billion in 1981-82. While enrollments rose 75 percent, expenditures (inflation adjusted) rose 400 percent. Yet, the quality of education had declined to such a point that the National Commission saw fit to title its report **Nation At Risk** .

Since lawmakers are concerned with balancing budgets without increasing expenditures, low or no-cost school improvement plans are sought. Private and local initiatives, as opposed to massive federal and state funding, are the keys to solving the financial problems facing schools. Students' needs are better matched with available resources by maximizing local control and accountability. But state and local governments must remove legal constraints and provide incentives for schools, businesses, and taxpayers to develop school finance policies linked specifically to quality improvement. Throughout the country, school districts, communities, and individuals have acted, sometimes in partnership, to solve problems rather than rely on the federal or state government to do it alone. Listed below are some innovative low or no-cost school improvement initiatives which maximize local control.

1. Deconsolidation

At first glance, the United States could be looked upon as a nation

comprised of small, deconsolidated or decentralized school districts. Statistics from 1980 show that 69 percent of the country's school districts have four or fewer schools. However, when one turns to school enrollment statistics, the picture changes. Approximately 82.5 percent of the nation's public school pupils are enrolled in school districts containing five or more schools. The reason for this disproportion? While it is true that the majority of school districts are still small, so are their enrollments. In 1980, districts with fewer than five schools averaged 678 students; in contrast, districts with five or more schools averaged 7,119 pupils or over ten times the number in the smaller districts. The vast majority of public school students, therefore, work their way through schools in larger, more consolidated school districts.

Over the last 35 years, the number of public school districts declined considerably. Since World War II, when over 101,000 districts existed in this country, their number has fallen by over 85,000 to 15,912 in 1980. But the trend is reversing. Pressure from minority groups, parents, educators and local communities is forcing school authorities in large school systems to decentralize and increase community involvement in schools. In 1973, Allan C. Ornstein conducted a landmark nationwide survey of administrative decentralization and community participation among school systems enrolling 50,000 or more students. Data on 65 out of 77 school systems in that group (84 percent return rate) were reported. Of the 65 school systems, 39 had decentralized (60 percent) and eight were considering it. In a follow-up study conducted in 1980, Ornstein found that the decentralization process was still very much alive. The number of school systems with 50,000 or more students had decreased from 77 to 69. Data were obtained from 66 school systems out of which 42 reported they were decentralized, six of them since 1973: Washington, D.C., Jefferson County (Kentucky), Baltimore County, Duval County (Florida), Charlotte-Mecklenburg County (North Carolina), Mobile County (Alabama), and Tucson. In addition, 18 had modified existing decentralization policies between 1973 and 1980 and only three school systems had moved from decentralization to centralization: Anne Arundel County (Maryland), Milwaukee, and Pittsburgh. The follow-up study also revealed that decentralized units varied from as little as two areas in Portland and Oakland to as many as 32 community districts in New York City.

Although decentralization does not necessarily lead to increased community involvement, parents seeking to affect educational decision making have easier access to that process in a smaller school system. The consolidation of school districts in the late 1940s and throughout the 1950s broke the bond between family, school, and community because parents and citizens lost authority over their schools. Deconsolidation can restore control of schools to the level of citizen organization closest to each set of schools.

Most school officials are reluctant, however, to transfer power to community groups. Many school systems such as Los Angeles, Philadelphia, and Portland state clearly in policy reports that community controls allegedly have the potential for more harm than good. But attempts have been made to change policies and increase community control. In 1983, a proposal was introduced in the California Assembly by Assemblywoman Marian LaFollette which would have removed impediments in current law to forming new school districts from part of the territory of existing districts. Although Assembly Bill 1500 never reached the floor of the Assembly, it would have required fewer voters to sign a petition in order to initiate a district reorganization. It also would have eliminated the requirement of obtaining the approval of the county committee and State Board of Education for such a move.

Arguments have been made against community control because in some districts, problems have erupted concerning community school boards not being well enough informed to make policy decisions and becoming susceptible to nepotism as traditional school boards. Nevertheless, it is vital to the democratic process that parents and community members take an active role and sometimes an authoritative function on lay commissions and councils. Deconsolidation can be a vehicle for placing more authority and responsibility in the hands of the people at the local level who have the most knowledge of local conditions and are directly affected by them.

2. Reducing the Number of School Administrators

One major way to cut school expenditures is to reduce the number of administrators. Figures show a proliferating school bureaucracy. In the years 1960-1980, total instructional staff in our schools increased 74.9 percent. The increase in teachers and principals was 61.1 and 69.8 percent respectively, while there was an increase of 150 percent in supervisors, 203 percent in library specialists, 388.5 percent in guidance counselors, and 600 percent in psychological personnel. During the same general period the percent of educational funds spent on instruction declined 5.29 percent while the percent spent on administration increased 12.8 percent. These figures suggest that there has been a redirection of money spent on education away from classroom teaching and into administration at the same time that there has been a move away from local control of the educational process.

Judicial and legislative mandates are largely responsible for the dramatic increase in administration. For instance, demands have intensified for desegregated schools to overcome residential segregation and equalized learning opportunities to overcome alleged sex discrimination. Consequently, schools have built larger bureaucracies, sometimes using funds provided by

the state and federal government which oftentimes dwindle, yet the numbers of administrators remain.

Reducing the number of administrators is a problem in urban, suburban, and rural areas. Many districts insist on hiring their own administrative staff, regardless of the size of the district. In order to reduce costs and keep schools open, small districts should share a superintendent and administrative staff. Some rural areas already "share" special education personnel, but most central office administrators are very reluctant to reduce their staff. State legislators and concerned citizens must combat against strong negative reactions from the central office and remind the public that they are paying for personnel no longer needed given the drop in student enrollment.

For example:

- In St. Paul, Minnesota, the board of education decided it would have to reduce staff and ordered the superintendent to prepare an administrative reorganization plan. The board noted the system was staffed administratively for 50,000 students, which had been the peak population in the early 1970s, but that it now had only 32,000 students. The superintendent prepared a plan which cut central office positions by combining responsibilities. The reorganization in St. Paul consolidated positions for math, science, reading, language arts, industrial arts, home economics, art, and social studies "coordinators." These eight positions—each of which cost the district almost $50,000 per year in wages and benefits—were consolidated into four positions.

3. School-Based Management

School-based, or school site management is a form of school district organization where budgeting decisions are made at the school building level by the principal and staff. It departs from the traditional centralized administrative method of controlling a school's budget. The plan increases the fiscal flexibility at the individual school level in order to heighten the impact of program decisions on individual student growth.

Although most building principals and staff have not been trained to understand budgeting and fiscal resource allocation, it is not difficult for them to learn about school finance. Despite the mystique that surrounds the so called intricacy of school financing, it is possible to simplify the process. Implementation of the building budget process is dependent on the principal's capacity and skill to develop an educational program with a limited number of dollars. All those involved with the school have the opportunity to assist in the building budget process which includes the provision of instruc-

tional and noninstructional support services.

For example:

- The Lansing School District in Michigan has adopted school-based management with great success. The school district provides a document as a basic guideline to enable principals and other educators to understand building level fiscal approaches. Underlying this document is the realization that the school is the key unit for educational change and improvement. Principals must recognize the cultural, ethnic, and socio-economic differences between students and serve their various needs by deploying fiscal resources to meet priority issues. After the priorities are established and building funds are distributed, any monies allocated to the school, but unexpended, are carried over from one year to the next. Each school is allowed to keep any dollars it has saved through management efficiencies. During the first year, Lansing's district-wide savings amounted to $600,000.

4. Performance-Based Funding

Performance-based funding offers incentives to schools to compete for public and/or private funds in order to meet goals chosen by the donor or agreed upon by the donor and potential recipient. A school is funded because it attains high standards of quality in effort and performance not because those goals have never been realized. Performance-based funding is quite unlike the typical "give us the money first, then we will think about the problems, do the planning, then seek more funds to do the program, then more funds to do the evaluation, etc." It is intended to serve as praise for initiative and resourcefulness.

Performance-based funding gives schools the financial incentive to compete with their own records and with other schools'. Achievement test scores and other performance measures such as reduction in school crime can be used to determine eligibility for funding or awards such as supplies, jobs, etc. State authorizing legislation is necessary if performance-based funding is supported with public funds. But corporations and foundations can donate funds or give awards without legislation. They are not subject to the same budget constraints as the government and do not lack the political consensus regarding which educational outcome to reward.

For example:

- Realizing that "throwing money at the problem" is not a productive path

to follow, the Rockefeller Brothers Fund Awards in Art Education sponsors a program in which public schools that have been operating effective high quality arts programs (in one or several of the arts) are eligible to compete for one of up to ten $10,000 awards each year. Through the awards program, the Fund hopes to enhance the quality and quantity of students' engagement with the arts, by encouraging schools to sustain and expand outstanding programs, and by making these programs widely known.

- In California, a proposal introduced by Senator Leroy Greene and eventually vetoed in 1983 by Governor George Deukmejian would have provided funding to each voluntarily participating school district maintaining high schools which demonstrate an improved performance in their past-year achievement test scores. Schools with improved performance would have received a pro rata share of the total incentive appropriation, based on the actual increase in performance (as measured by test scores) and the number of students taking the test. Senate Bill 1086 was designed to encourage improvement in the performance of public schools by providing fiscal incentives.
- In Boston, the mayor, the school superintendent, and key executives from the business community have agreed on an "historic bargain" called the Boston Compact. Under this agreement, the schools over a five-year period must improve in five areas: attendance, student retention, achievement in English and mathematics, placement and education following graduation, and placement and jobs. In return, the business community will give priority to hiring graduates of the schools and collaborate closely with the school system in a citywide career development and job placement program.

5. Adopt-A-School Program

Perhaps the most popular form of partnership between the business community and public schools is the Adopt-A-School program in which individual schools pair up with businesses in a community. These partnerships are attractive because of their simplicity and flexibility. They enable individual schools and businesses to develop activities at their own pace, consistent with their needs and resources. Joint curriculum development, field trips, classroom speakers, tutoring arrangements, internships, and career awareness seminars are just a few of the possible projects that businesses and schools can undertake together at no expense to the taxpayer.

For example:

- In New York City, the American Bar Association has promoted the

Mentor Program in which five major law firms have been paired with a high school specializing in a field of study related to the expertise of its allied firm. For example, a firm with a large international practice was matched with a high school with an innovative international studies curriculum.

- In San Diego County, an Adopt-A-School Program involves all segments of the local community. The better-known participants are the Hewlett-Packard Company, United States Navy, San Diego Chargers, and the San Diego Padres. Activities common to virtually every partnership include tutoring, counseling, and career education lessons presented by adopter representatives.
- In Milwaukee, Wisconsin, a teacher/business program exists to expose teachers to the business environment and learn about current technology and practices. Sixth through tenth grade teachers are hired by the businesses for five to six weeks each summer.
- The five CBS owned and operated stations in New York, Philadelphia, Chicago, Los Angeles, and St. Louis have adopted schools. Projects include producing a TV news show over a school's closed circuit television facilities, TV studio internship programs, and workshops on script-writing, camera techniques, and technical skills. Stations are also encouraging others to adopt schools by doing on-air editorials and public affairs news programming.

6. School Volunteer Program

Volunteers can play an important role in the public schools. An effective volunteer program can upgrade the student's and volunteer's educational performance as well as improve the public's perception of the schools. In the past, school volunteers were predominantly engaged in nonteaching chores, such as monitoring lunchrooms and playgrounds, taking attendance, and helping with field trips. Now they are becoming involved in the education process as visiting lecturers, teacher assistants, and tutors.

A successful education volunteer program is contingent upon local districts properly translating a volunteer's energy into effective action. But it is also contingent upon state legislatures and local communities adopting volunteer policies encouraging district and citizen involvement. Possible incentives for volunteers include free child care services for parents, lunch and transportation for senior citizens, and tax deductions or credits for businesses participating in the program.

Most existing volunteer programs rely on parents, students, business employees, and senior citizens. While regional differences exist, many programs are characterized by an increasing degree of professionalism.

They have achieved success consistently over the years due to careful initial planning, slow and deliberate growth, and sensitive matching of the volunteers with the teachers and children they serve.

For example:

- In Connecticut, School Volunteers for New Haven, Inc. has grown in the past 14 years to meet the changing needs of a complex urban school system. Each year about 500 volunteers from all walks of life work in the 44 New Haven schools at all levels, from Head Start to high school. In 1983, volunteers contributed over 12,000 hours of help for about 13,000 students and their teachers. The program also has a talent bank of resource speakers from all parts of the community who are willing to visit classrooms once or twice a year to tell about their careers, hobbies, travel, and special interests.
- In Florida, a successful school volunteer program has been organized and managed through the Florida State Department of Education. The statewide program has increased by 73 percent since its founding in 1975. Volunteers can be found in 78 percent of the schools. Over 77,000 parents, businessmen, and other citizens donate their time and talents to promote student learning. It is estimated that during 1981 alone over $14,400,000 worth of service in instruction programs was donated to Florida schools.
- In Los Angeles, the Dedicated Older Volunteers in Educational Services (DOVES) is one of the nation's most successful senior citizen programs. As of November 1984, 4,500 DOVES have been recruited, all of them are in the 55-and-above age group. DOVES are recruited by the school district which contacts personnel departments of industrial, commercial, and service organizations in both the public and private sectors to obtain names of recent retirees and interested persons who are about to retire.

7. Privately Endowed Public Schools/Education Foundations

Significant contributions have been made to public education by private citizens, companies, organizations, and tax-exempt, nonprofit education foundations. Many of the education foundations have been formed at the school district level to solicit gifts and funds from parents, the community, business, and industry. Endowments or gifts from the private sector are not regulated by any state or federal agency and are increasing daily.

For example:

- The Bank of Boston marked its 200th anniversary by announcing an unprecedented endowment of $1.5 million to Boston's public schools. Earnings from the bank's gift, plus a grant from the Permanent Charity Fund, are expected to generate over $300,000 in the first year. Teachers, administrators, parents or students can receive grants from $1,000 to $10,000 for innovative projects. Bank officials hope the fund, named the Boston Plan for Excellence in Public Schools, will attract donations from other businesses and charities.
- In Winchester, Virginia, each year about $54,000 from an endowment fund administered by a board of trustees is used to help finance the city's schools.
- In Washington, D.C., the Washington Parent Group Fund (WPGF), a coalition of lawyers, parents, and corporate executives, raises money for educational enrichment programs in the city's Anacostia district. It finances writing workshops, reading programs, field trips, and teacher instruction.
- In Pittsburgh, businesses and foundations have contributed to the Allegheny Conference Education Fund, which has supported a broad range of initiatives to help reduce the isolation of the public schools from the broader community and to improve public perceptions of the district. One such initiative is a program of small, competitive grants for teachers to carry out innovative projects with their classes.

8. A Smorgasbord of Cost-Cutting Ideas

- Involving the private sector in review of federal and state government operations has been effective in discovering ways to trim spending of tax dollars and improve governments' efficiency. State legislators could profitably adopt the same method to focus on the state education bureaucracy, and local school board members could make use of the same technique in maximizing the effectiveness of their own tax resources.
- Schools and the community have similar needs which cannot be met without staggering costs. Only by working together are facilities and services affordable to both. For instance, in Wichita, Kansas, the city and school district cooperatively operate a library facility in an elementary school. By pooling together city and school resources, students as well as the community gain access to a large collection of materials. A second shared-use library has been opened in another elementary school in Wichita because the concept has worked so well. An example of a school and community exchanging services can be found in Ortonville, Minnesota, where high school students keep financial records for a number of local farmers as part of their course work. Shared use of facilities,

services, or advanced technology like computers offers clear financial advantages to participating groups and strengthens school and community ties.

- Some school districts are developing "fee-for-service" activities outside the boundaries of free public school services. Computer or fine art summer camps and day care services exemplify the types of "businesses" school districts can create to raise additional funds. Jonathan Sher, former Assistant Dean at North Carolina State University, has helped initiate school-based community development corporations which have young people provide services while improving their own skills and earning money for their schools.
- School districts are beginning to establish policies for leasing surplus space. The school district of Montgomery County, Maryland, has gone farther than most in sorting out the complexities of the issue. The district leases space to private schools and receives more than $800,000 from the approximately 24 private institutions that occupy buildings formerly used by public schools. Rent from the buildings helps improve public schools in the county.
- Several major corporations, including General Motors, Xerox, and Control Data, are discussing providing financial backing for the creation of career high schools in Washington, D.C. Similar arrangements have been developed in Houston and other cities. The rapidly changing nature of the workplace, caused primarily by an equally rapid evolution of new computer-related technologies, has been cited as one reason for the business community's decision to play a direct role in shaping the education of its future employees. Another major reason is that businesses can no longer tolerate people with marginal skills graduating from high school. The American Society for Training and Development estimates that businesses spend at least $30 billion annually on retraining workers.

CUMULATIVE INDEX

This index covers all model legislation for education appearing in the ALEC's **1977** and **1978-79 Suggested State Legislation** books, and ALEC's **1980, 1981-82,** and **1985-86 Source Book of American State Legislation** . Copies of these proposals are available from the American Legislative Exchange Council.

Free Enterprise Education Act (1977, pages 48-50) Requires instruction for at least one semester on the essentials and benefits of the productive free enterprise system as a prerequisite for high school graduation.

Parental Rights Act (1977, pages 51-55) Requires informed written consent of parents or guardians before their children can be subjected to any value-oriented programs, materials, tests, surveys, personal counseling, or other activities, and requires confidentiality and privacy for the protection of students and their families.

Teacher Proficiency Act (1977, pages 56-57) Requires that teachers pass a test demonstrating their own proficiency in basic reading, writing, grammar, spelling, and mathematics in order to obtain a tax-salaried teaching or school administration position in the public school system.

School Discipline Act (1977, pages 58-59) Provides authority for local school boards to implement rules and regulations governing the use of responsible corporal punishment in the public schools.

Forced Busing Prohibition Memorial (1977, page 60) Memorializes Congress to pass a Constitutional Amendment to prohibit involuntary school busing.

Student Proficiency Act (1978-79, pages 39-40) Requires public school students to demonstrate proficiency in basic language skills by passing an appropriate examination as a prerequisite to high school graduation.

Education Tax Credit Act (1978-79, pages 41-43) Provides parents of elementary, secondary, vocational-technical and proprietary school students with an income tax credit equal to the actual cost of school expenses for each child enrolled in school, or $250—whichever is the lesser amount.

Student Freedom of Choice Act (1980, pages 43-44) Prohibits collection of mandatory student activity fees in state-operated colleges and universities.

Textbook Content Standards Act (1980, pages 57-59) Establishes the requirement that textbooks and teaching materials adopted for use in public schools accurately portray American history, tradition, and values.

Family Savings for Education Act (1980, pages 60-64) Encourages parents to set up a special account for their children's education by allowing deductions of up to $2,500 of the amount deposited.

Honor America Act (1980, page 65) Requires that all public elementary and secondary school students recite the Pledge of Allegiance during each school day.

Family Choice in Education Act (1981-82, pages 77-84) Maximizes educational opportunity for all children by creating a "tuition voucher system."

Educational Accountability Act (1981-82, pages 85-90) Creates an independent commission to act as advisor to the state school board on matters relating to teacher performance.

Bilingual Education Summary (1985-86) Requires that any bilingual student entering public schools prior to the ninth grade take the student proficiency test in English.

English Language Amendment (1985-86) Declares English to be the official language of the state, but does not prohibit the teaching of foreign languages in schools or any short term transitional bilingual education programs.

Prohibit Aid to Draft Resisters (1985-86) Requires students requesting state education assistance funds to show a compliance with registration requirements of the Selective Service, and prohibits state money from going to students who have not complied.

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